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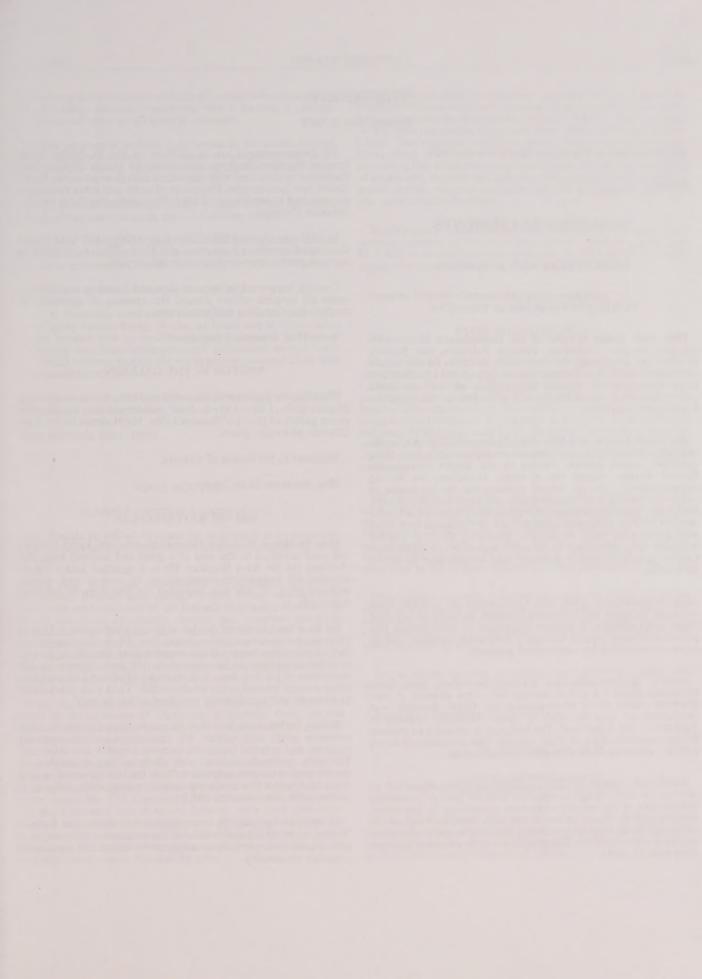
THE HONOURABLE DANIEL HAYS **SPEAKER**



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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193



THE SENATE

Tuesday, July 5, 2005

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

AGRICULTURE AND AGRI-FOOD

GOVERNMENT MEASURES
TO RELIEVE PROBLEMS IN INDUSTRY

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Gustafson, Senator Fairbairn and Senator St. Germain are among the very active members of the Senate who have focused their interests on our agricultural situation, and have continued to request information as well as make representations. I would like to add something to the responses I have previously made.

As is well known, the May 2003 finding of BSE in Canada radically changed the environment in which cattle and other ruminant sectors operate. Access to our largest market, the United States, closed for a time. However, on strong representations from the federal government, the provinces, in particular Alberta and Saskatchewan, and many industry groups, the United States Department of Agriculture reopened the border later in 2003 to packaged boneless cuts of Canadian beef from animals younger than 30 months. However, the U.S. market continues to remain closed to live cattle and other ruminants from Canada as well as to meat products from animals over the age of 30 months.

On September 10, 2004, the Government of Canada took measures to assist the Canadian livestock industry in ensuring longer-term viability. A federal investment of \$488 million was provided to help expand Canada's processing capacity, and to create new demand for value-added products.

Senator St. Germain and Senator Gustafson have been concerned about the policy dealing with older animals. A new program called Herd Management for Older Animals was announced on June 29, 2005 by Andy Mitchell, Minister of Agriculture and Agri-Food. The program is designed to provide for the selective culling of older animals. This program will be on a 60/40 cost-share basis with interested provinces.

Additional funding of \$17.1 million is being expended to develop Canada's slaughter capacity with the goal of processing 100 per cent of the country's livestock production. In particular, changes will be made to the Loan Loss Reserve Program to encourage investment in processing facilities, in particular those targeting older animals. The program will be extended through December 31, 2007.

All these measures are in addition to the \$1 billion Farm Income Payment Program announced in March 2005 to help Canadian farmers deal with immediate cash flow pressures due to record low farm income. Producers of cattle and other ruminants are expected to receive over \$300 million under this Farm Income Payment Program.

In addition, a further \$80 million is provided in Bill C-43 for the disposal of specific risk material; and \$10.2 million is provided to support genetic improvement of breed animals.

Canada, supported by the provinces and industry, continues to make all possible efforts toward the opening of international markets for Canadian beef producers.

Some Hon. Senators: Hear, hear!

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, before recognizing Senator Jaffer, I would like to draw your attention to the presence in our gallery of guests of Senator Jaffer, His Holiness Sri Sri Ravi Shankar and other guests.

Welcome to the Senate of Canada.

Hon. Senators: Hear, hear!

SRI SRI RAVI SHANKAR

Hon. Mobina S. B. Jaffer: Honourable senators, today I rise to call your attention to the visit of a great and talented man, His Holiness Sri Sri Ravi Shankar. He is a spiritual leader whose message of compassion, commitment to society and cosmic understanding of life has impacted on the lives of millions worldwide.

Sri Sri is the founder of the Art of Living Foundation, a United Nations non-governmental organization. He is the inspiration behind numerous humanitarian organizations focused on service and the promotion of human values. He says, "Service is the expression of joy and love. Ask yourself, 'How can I be useful to those around me and to the whole world?' Then your heart starts to blossom and a completely new level of life begins."

Today, Sri Sri reminds us that the great spiritual traditions have common goals and values. He encourages people from all religions and cultural traditions to come together and celebrate. His love, practical wisdom and whole-hearted dedication to service inspire people everywhere. With limitless compassion and grace he brings a whole new dimension to spirituality, infusing it with a sense of celebration and joy.

In 1997, he founded the International Association for Human Values, an NGO located in Geneva. Its mandate is to foster, on a global scale, a deeper understanding of the values that unite us as a human community.

Underlying this mandate is a vision of a world where people can celebrate their distinct traditions while having a greater appreciation of what we all have in common.

His 5-H program is making a difference in the world through service and social projects. It focuses on providing five goals. They are health, homes, hygiene, harmony in diversity and human values.

He has initiated projects in 25,300 villages around the world, bringing self-reliance to more than 2.3 million people.

His simple message of love, practical wisdom and service encourages harmony, and teaches everyone to follow their chosen religious or spiritual path while honouring the path of others.

Sri Sri's gift to mankind is that he teaches us:

A stress-free mind and a disease free body are birthrights of every human being. Neither at home nor at school have we learned how to handle negative emotions. The Art of Living breathing techniques and meditation courses have helped millions around the world and empowered them with unconditional joy.

Honourable senators, I know you will join me in welcoming this extraordinary man here today.

Hon. Senators: Hear, hear!

• (1410)

NOVA SCOTIA

SUMMER FESTIVALS AND EVENTS

Hon. Donald H. Oliver: Honourable senators, it is no secret that Nova Scotians love to celebrate, and when we celebrate we invite the world.

Every year, my home province of Nova Scotia hosts over 700 summer festivals and events. Today, I rise to share with honourable senators some of the festivals that make Nova Scotia one of the most artistically diverse and creative provinces in Canada. For instance, last month, from June 17 to 19, approximately 40,000 people from around the world converged on Dartmouth waterfront for Nova Scotia's Multiculturalism Festival. For three days, over 25 ethnocultural groups celebrated diversity through friendship, food and music.

When the festival was established, 18 years ago, the show was staged in the ballroom of Dalhousie University. Over the last 18 years, the multiculturalism festival has become the premier summer event in the province.

Another marquee event is the TD Canada Trust Atlantic Canada Jazz Festival that will be held this year from July 15 to 24, in venues throughout Halifax. A major event in the Canadian music scene, the TD Canada Trust Atlantic Jazz Festival is Atlantic Canada's largest music festival, with over 450 local, national and international performers delighting audiences for 10 days every summer. Since 1987, more than 65,000 music lovers from across the region, across the country and across the border have enjoyed countless top-quality acts.

One final example, honourable senators, is the Antigonish Highland Games, held every summer in my province since 1863. For generations, the Scottish way of life — and my wife is a Scott — has been maintained in eastern Nova Scotia and Cape Breton Island. The language, traditions, music, dances and songs of the Gael, along with feats of strength and excellence, continue to flourish at the Antigonish Highland Games. Every July, hundreds of musicians, dancers and athletes perform and compete in this grand festival, which is the oldest continuous highland games in the world outside Scotland.

Traditionally, Nova Scotians have referred to the province's tourism industry as "our best kept secret." However, with over \$1.3 billion in total revenue generated in 2004 alone, it would appear, honourable senators, that the secret is out.

Senator Mercer: Come, visit!

CIVIL MARRIAGE BILL

Hon. Shirley Maheu: Honourable senators, I take this opportunity to salute our brother and sister legislators in the Congress of Deputies of Spain. On Thursday last week, Spanish parliamentarians voted 187-147 to become the third nation to legalize same-sex marriage. Henceforth, the citizens of Spain will enjoy a broad definition of marriage. A majority of lawmakers in Belgium, Netherlands and Spain have been joined by a majority of members in our own House of Commons to proclaim that cherry-picking in the field of human rights will no longer be tolerated.

On Tuesday last week, the other place passed Bill C-38, respecting certain aspects of legal capacity for marriage for civil purposes. The proposals in this legislation have been debated, demeaned, demonized and delayed for many months, ad nauseam. In fact, I believe that this proposal has had as thorough an examination as any piece of legislation that I can remember in my 17 years of service in both Houses of Parliament.

Honourable senators, it is time to move on. There is nothing about this proposal that has not yet been said in both our official languages by anyone, anywhere in Canada. Clearly, this is absolutely nothing new, or there is absolutely nothing new that could possibly be said.

Let us move on. Let us provide and enshrine dignity and inclusiveness for all Canadians, and let us do it now!

Some Hon. Senators: Hear, hear!

MS. MARY DAWSON, Q.C.

TRIBUTE ON RETIREMENT FROM DEPARTMENT OF JUSTICE

Hon. Lowell Murray: Honourable senators, our generation of parliamentarians, and several that have preceded us, would want to take note of the retirement last month of Mary Dawson, Q.C., as Associate Deputy Minister of Justice.

During her 35 years of public service, Ms. Dawson was directly involved, often as the senior responsible officer, in all the major legislative, constitutional and quasi-constitutional initiatives of the various governments that have held office during that period. She worked on the drafting for the Patriation of the Constitution in 1982 and the Canadian Charter of Rights and Freedoms. Parliamentarians came to know her well from her appearances at our committees, and during study of the Meech Lake accord and the Charlottetown Accord under the Mulroney government, the regional vetoes bill, the Clarity Act, and the amendments to education provisions affecting Quebec and Newfoundland under the Chrétien government.

At a recent reception in her honour, the present Minister of Justice, Mr. Irwin Cotler, paid moving tribute to her central part in all that history. He went on to give personal witness to her critical role in developing and drafting two recent initiatives, Bill C-38, which is now before the Senate; and the political accord between First Nations and the federal Crown on the recommendation and implementation of First Nations governments.

When Mr. Cotler said that Mary Dawson personified justice, all of us knew what he meant. Ministers who worked closely with her — and I was one of several in that category who were present for her farewell — depended heavily on her intuitive understanding of the complexity and subtlety of issues. In my case, she often had to point them out to me. Parliamentarians appreciated her ability to articulate their concerns sometimes better than they could themselves, and to analyze and clarify difficult issues for and with them.

All of us valued her formidable professional skills and her professional integrity. Hers was a very high standard indeed, and she has done honour to her department, to her profession and to the Canadian public service.

Some Hon. Senators: Hear, hear!

COMMEMORATION OF PRIME MINISTERS

Hon. Serge Joyal: Honourable senators, last Thursday, June 30, the *Ottawa Citizen* reported, in an article signed by Randy Boswell, that the birthplace of Sir John A. Macdonald on 20 Brunswick Street in Glasgow, Scotland, was to be demolished. Only recently discovered by a journalist of CanWest News Service as the original birthplace of Sir John A., where he lived from 1815 to 1820 before emigrating to Canada, the site belongs to the British Selfridge chain store that is owned by a Canadian well-known in the retail business milieu, Mr. Galen Weston.

[Translation]

I need not remind you of the lead role Sir John A. Macdonald played in the negotiations for adopting the British North America Act in 1867 and in the development of a national policy that made Canada what it is today. His name remains inseparable with that of Sir George-Etienne Cartier. Their political association resulted in a lasting achievement that continues to benefit all Canadians.

[English]

Canada should have the pride to commemorate its prime ministers in Canada, where they have completed their achievement, and sometimes abroad when it so happens that

there lies their birthplace — as is the case for Sir John A. — in Glasgow, Scotland, where so many Canadians have ancestors. I remind honourable senators that it is through a Senate private bill, Bill S-14, introduced by former Senator Lynch-Staunton and adopted by Parliament in 2002 that Canada now officially celebrates Sir John A. Macdonald Day on January 11 and —

[Translation]

Sir Wilfrid Laurier Day is celebrated every year on November 20. Sir Wilfrid Laurier was born in Saint-Lin des Laurentides in 1841 and died in Ottawa in 1919. His two places of residence have been enhanced by Parks Canada, as well they should be. Even in Paris there is a street named for Wilfrid Laurier, with the explanation "Canadian politician", located in the 14th arrondissement near Porte de Vanves. It is a reminder that, in 1896, Sir Wilfrid was one of the first Canadians to be granted the rank of Commander of the l'Ordre de la Légion d'honneur, its highest honour, by French President Félix Faure. This commemoration was due to an initiative by the City of Paris, not the Government of Canada.

[English]

Last week, I moved a motion calling the attention of the Senate to the need for a formal policy to be adopted by Parks Canada to commemorate, in an appropriate way, the various prime ministers of Canada who led the country in the building of our nation. I hope, honourable senators, that you will support that motion so that Sir John A. Macdonald's birthplace and the residence of Sir Louis-Hippolyte Lafontaine in Montreal shall be preserved, and that their achievement will be commemorated by a country proud of its founders and origins.

Some Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

LEGAL AND CONSTITUTIONAL AFFAIRS NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEES TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that at the next sitting of the Senate I will move:

That the Standing Senate Committees on Legal and Constitutional Affairs and National Finance be empowered, in accordance with rule 95(3), to sit during the period of July 8 until July 15, 2005 inclusive, even though the Senate may then be adjourned for a period exceeding one week; and

That these committees be authorized to meet at any time during this period.

• (1420)

QUESTION PERIOD

FEDERAL CROWN CORPORATIONS AND AGENCIES

REPRESENTATION OF VISIBLE MINORITIES ON BOARDS

Hon. Donald H. Oliver: Honourable senators, my question is directed to the Leader of the Government in the Senate and is a follow-up to a question I asked the honourable leader on June 7, 2005, relating to the representation levels of visible minorities on significant public boards, commissions, Crown corporations, federal councils and agencies, and in executive level positions within the public service.

The Leader of the Government in the Senate will recall that at that time I asked whether he believed that there should be visible minority representation on significant public boards of directors and, if so, whether he would undertake to make representations to colleagues in cabinet in an attempt to rectify this problem and ensure that public boards and agencies more closely reflect the multicultural mosaic of Canada.

Has the honourable leader made those representations to his cabinet colleagues? If so, did he receive a favourable response? If so, when does he expect that some appointments can be made?

Could the Leader of the Government indicate whether cabinet is considering having an independent commissioner for an open and independent process modeled on the U.K. process?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have certainly had discussions with cabinet colleagues with respect to the subject matter of Senator Oliver's question, and I am confident that recognition of this problem and action on it is moving forward.

I obviously cannot answer as to when appointments will be made. I have no idea what persons are being considered. The government is a very large institution, and there are 38 other ministers who make appointments. Complexity sometimes defies an easy answer.

With respect to the question of an independent commissioner, I recognize that Senator Oliver has maintained this representation and identified the way in which the role is played in the United Kingdom. Again, I cannot forecast government policy, but I will make specific inquiries to satisfy myself that the question of an independent commissioner is being considered.

INFORMATION COMMISSIONER PRIVACY COMMISSIONER

COMBINING OF TWO OFFICES— TIMING OF ANNOUNCEMENT— INDEPENDENT REVIEW

Hon. Gerald J. Comeau: Honourable senators, my question is directed to the Leader of the Government in the Senate and is a follow-up to a request made last week by the Leader of the Opposition for an update on whether the government intends to extend the term of Information Commissioner John Reid.

The Leader of the Government had no information at that time, but later that afternoon he rose in the Senate and announced that there would be a three-month extension of Mr. Reid's term. That announcement was made around 4:30 in the afternoon. The email from the PMO indicates that it was released at 4:39, so the response of the Leader of the Government to the Leader of the Opposition was very timely.

The PMO's news release announced more than a simple threemonth extension. It said that the Minister of Justice will engage an eminent person to be named in July to examine the merits of combining the responsibilities of the Information Commissioner and the Privacy Commissioner into a single office. This eminent person is to report to the Minister of Justice in September.

As we all know, announcements made at 4:39 p.m. on the eve of a long weekend generally do not get much media coverage. Why would the Prime Minister wait until the last possible moment to make such a major announcement involving two officers of Parliament? Why would the Prime Minister not have done this at a time when we could have asked questions about it immediately?

Hon. Jack Austin (Leader of the Government): I thank the honourable senator for acknowledging my timeliness in bringing forward information in response to Senator Kinsella's question about extending the term of the Privacy Commissioner. Senator Kinsella did not ask about any other issues and I did not want to go beyond his specific question, as it would not have been a succinct answer.

With respect to the remainder of Senator Comeau's question, I suppose that timing is never satisfactory to everyone. However, at least the answer was given. I believe that the idea of combining the offices of the Privacy Commissioner and the Information Commissioner deserves serious consideration. It would, if proven meritorious, provide a parliamentary officer with very strong authority.

Senator Comeau: Honourable senators, the Prime Minister's press release reads:

The arm's-length review will be conducted by an eminent person, whose mandate will be to assess the successes and challenges of the current model, review models used in other jurisdictions, and develop options for the Government's consideration.

Honourable senators, the Information Commissioner and the Privacy Commissioner are officers of Parliament. Why has the Prime Minister chosen to bypass Parliament to conduct this review? Why will this yet-to-be-named eminent person develop options for the consideration of the government but not of Parliament? What does the government have to do with this?

Senator Austin: Honourable senators, I believe that Senator Comeau knows more about the way government and Parliament works than his question discloses. The government is responsible for the governance of Canada and issues of any kind are within its provenance. The government must look at what it believes are important issues in Canadian public policy. This does not in any way direct Parliament or take away the role of Parliament.

As honourable senators know, Parliament disposes of whatever the government proposes. If a proposal by the Government of Canada with respect to the way in which Parliament operates is unacceptable to Parliament, it will be refused. This is the normal system and there is nothing alarming or of concern with respect to how it works. It is also completely possible for Parliament to reverse the system and carry out its own studies by way of motions in the other place or in this chamber. All these systems are available for the consideration of public policy.

Senator Comeau: Honourable senators, I hope that this chamber will take up the honourable leader's challenge. It is the purview of Parliament, not the government, to determine whether it wishes to have the Office of the Information Commissioner and the Office of the Privacy Commissioner combined into a single office. The two have quite different mandates. In the past we have had some good Privacy Commissioners and some not-so-good Privacy Commissioners.

I hope this chamber is up to the challenge that the Leader of the Government has issued to us this afternoon, and that we make up our own minds rather than leaving it up to the Minister of Justice as to whether we should be combining the two offices or whether they are to be kept separate.

• (1430)

Senator Austin: Honourable senators, good ideas should be acceptable from wherever they come. Why not wait to see what the eminent person reports and consider that report in the appropriate way here in this chamber? We can decide where we go from there.

Hon. Pierre Claude Nolin: Honourable senators, I am following up on the answers the Leader of the Government gave to our colleague.

We understand that that study will take place over a period of three months. By the end of September, then, we will know the result of that consultation. That is how we read the announcement.

Who gave the Prime Minister that advice? Was it cabinet? Who recently supported Mr. Reid's re-nomination for a year? Was it the Clerk of the Privy Council? Was it the Minister of Justice or PMO advisers who were concerned by linkages Mr. Reid made in various reports? Who gave the Prime Minister the advice?

Senator Austin: Honourable senators, I take it from his question that it was not Senator Nolin. The question of who gives advice to the Prime Minister is not one on which I respond. It is not within the conventions of our parliamentary practice to disclose the specific advisers to the Prime Minister or to the cabinet on any specific information.

Senator Nolin: Honourable senators, I accept that answer, but let me take the question down a different path. Can the government leader assure us that what is taking place is not a manoeuvre to get rid of Mr. Reid because he kicked some people in the rear? Give us that assurance, and we will take the answer as a promise.

Senator Austin: Honourable senators, I believe Mr. Reid has performed in an outstanding way in his office. The government has shown confidence in extending his term by an additional three months. The press release, which was referred to by Senator Comeau, explains that the government wants an independent review of the possibility of combining those two offices. I do not think any implication of criticism can be drawn of John Reid in the way he has conducted his office.

Hon. Lowell Murray: Honourable senators, I wish to pursue something the Leader of the Government in the Senate said a few minutes ago. Will he give us the assurance that Parliament will have an opportunity to debate the report of the eminent persons group before any legislation is brought in affecting those two offices of Parliament?

Senator Austin: No, honourable senators, I cannot give that assurance. However, nothing bars any senator from initiating an inquiry to deal with this issue, should any senator wish to pursue it.

Hon. A. Raynell Andreychuk: Honourable senators, my question is a supplementary one as well. The Access to Information Act itself has been under review and continues to be under review. How will the three-month review to combine the Access to Information Act and the Privacy Act mesh with proposed changes that may be coming to the Access to Information Act?

Senator Austin: Honourable senators, I do not think it is a very long step to say that this study must be considered to be a part of that process.

Senator Andreychuk: Honourable senators, as a follow-up, the Access to Information Act has already been the subject of some deliberation in the other place. May I presume that that report then will be made available to them? If so, would it not be made available to the Senate?

Senator Austin: Honourable senators, any report made available to the other place will be made available to this chamber.

NATIONAL DEFENCE

SEARCH AND RESCUE—REPLACEMENT OF FIXED-WING AIRCRAFT—REFURBISHING OF LIBYAN AIR FORCE G222 PLANES

Hon. J. Michael Forrestall: I want to change the subject and ask the government leader whether he can give us a status report on the fixed-wing search and rescue aircraft replacement program. As he knows, it has been stalled for several months and is reportedly in a bit of a mess. Can the government leader tell us when the process might move forward or give us a report of sorts?

Hon. Jack Austin (Leader of the Government): Honourable senators, I cannot provide any further information with respect to that program. I know that both Senator Forrestall and I are disappointed that the program has not made more obvious progress.

Senator Forrestall: I have a supplementary question, which, against the background of events here in Canada in recent years, has a degree of high importance.

It is my understanding that a number of former Libyan Air Force G222 transport aircraft that have sat for many years in the Libyan desert are now in Canada being refurbished for resale. The G222 is an early — albeit several decades older — version of the C-27J aircraft, now reportedly the favoured choice for the fixed-wing search and rescue competition. It is terribly important that we be very cautious about equipment, not necessarily given the experience of the submarine boats.

Can the Leader of the Government in the Senate assure the chamber that these refurbished G222s will not be allowed to enter the competitive process for the fixed-wing search and rescue program? I ask that question believing that the Canadian military is entitled to good, new working equipment. The equipment does not have to be built in Canada, but it has to be new, working and reliable. God knows, I would not invoke the Sea King, but it is nevertheless in the back of my mind.

Senator Austin: Honourable senators, as usual, Senator Forrestall is ahead of me on information with respect to defence procurement. I have no information with respect to the Libyan aircraft, but I shall make inquiries and, I hope, provide more details at a later time.

• (1440)

ANSWER TO ORDER PAPER QUESTION TABLED

FOREIGN AFFAIRS— CONSTRUCTION OF CANADIAN EMBASSY IN BERLIN

Hon. Bill Rompkey (Deputy Leader of the Government) tabled the answer to Question No. 11 on the Order Paper—by Senator Kinsella.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting six delayed answers to oral questions raised in the Senate. The first three respond to oral questions by Senator Tkachuk, two regarding the firearms centre, the efficacy of the registry in reducing violent crime and the cost of gun registry, and the other regarding testing at CFB Gagetown. These questions were raised on June 14, 16 and 29 respectively.

[Translation]

I also have the response to a question raised in the Senate on June 14 by Senator Keon, regarding avian flu; the response to a question raised on June 23 by Senator Plamondon, regarding the Monsanto Study on Genetically Modified Corn — Right of Public to be Informed; and the response to a question raised on June 20 by Senator St. Germain, regarding assistance for lumber associations.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

FIREARMS CENTRE—EFFICACY OF REGISTRY IN REDUCING VIOLENT CRIME

(Response to question raised by Hon. David Tkachuk on June 14, 2005)

Canadian statistics on firearms crime, including homicide and robbery, were not reported in the Homicide Survey prior to 1974. The available national data from Statistics Canada show that:

- The firearm homicide rate has decreased over the last 30 years. Although there was a slight increase in firearm homicides in 2003 compared to 2002, the firearm homicide rate for 2003 (0.51 per 100,000) remains nearly 60 per cent lower than the 1974 rate of 1.24 per 100,000, and 47 per cent lower than the rate of a decade ago (0.97 per 100,000 in 1991);
- Over the past three decades, the rate of robberies involving the use of a firearm has declined by 54 per cent (from 26 per 100,000 in 1974 to 12 per 100,000 in 2003).

Canadian statistics on firearm-related domestic homicide were not reported prior to 1995. The available national data from Statistics Canada show that:

- The number of firearms-related spousal homicides has decreased by 8 per cent (from 25 incidents in 1995 to 23 incidents in 2003).
- The number of firearms-related family homicides has declined by 25 per cent (from 43 incidents in 1995 to 32 incidents in 2003).

Long-term reductions in firearms crime over the past several decades have paralleled the implementation of enhanced firearms control measures in Canada.

The National Weapons Enforcement Support Team (NWEST) — a National Police Service managed by the Royal Canadian Mounted Police — assists police investigations and helps to track stolen and illegal guns to their source across the country, and internationally. Since 2002, NWEST has helped with over 12,000 police investigations, assisted with over 700 search warrants, and provided approximately 1,000 technical information sessions to the policing community on investigation techniques including the appropriate use of databases such as: the Canadian Police Information Centre, the Canadian Firearms Information System, the Canadian Firearms Registry Online, and the Integrated Ballistic Identification System.

The Canadian Firearms Registry is one part of the Firearms Program responsible for the registration of firearms, including when a firearm is transferred to a new owner and upon import or manufacture. Police have direct online access to the licensing and registration database and they use it daily through the Canadian Firearms Registry Online (CFRO) service. With the help of this essential tool, police make approximately 14,000 queries to the online

system each week to support their efforts to prevent and investigate crime. Over 3.6 million queries have been made on the CFRO by police and other public safety officials since the Program was first implemented in December 1998. Between 2002 and 2004, almost 3,800 affidavits have been provided by the Canadian Firearms Registry to support prosecutions of gun-related crimes across the country.

FIREARMS CENTRE—COST OF GUN REGISTRY

(Response to question raised by Hon. David Tkachuk on June 16, 2005)

Hill & Knowlton Ltd. was hired in January-February 2004 by the Treasury Board Secretariat. The Secretariat was seeking an assessment of the financial position of the Canadian Firearms Program and the Canada Firearms Centre and options for the future.

The Treasury Board Secretariat commissioned the report consistent with its role as the government's management board and in light of the government's decision to initiate a review of the Firearms Program and the potential changes to the Program that could result from this review.

On August 20, 2004, the Access to Information and Privacy Office of the Secretariat received a request for a copy of the report prepared by John McLure, Senior Associate, Hill & Knowlton Canada Ltd. A copy of the report was released to the requestor on November 18, 2004. Sections of the report were not disclosed because the economic interests of Canada were at risk and because of confidential third party information.

The Treasury Board Secretariat specified that the review by Mr. McLure should focus on the current situation (Winter 2004) and should make recommendations for future action.

Officials of the Treasury Board Secretariat and the Canada Firearms Centre have studied and evaluated the report in the context of other reviews that have been commissioned on the Firearms Program.

In May 2004, the government announced the creation of a separate registration vote that would cap registration activity costs for the Canada Firearms Centre at \$25 million annually. The announcement also indicated that future funding for the Canada Firearms Centre would be \$85 million annually, including registration activities.

The 2005-2006 Main Estimates for the Canada Firearms Centre requested total funding of \$82.3 million. Of this amount, \$14.6 million is for operating expenditures in support of the registration vote. In total, registration activity costs for 2005-2006 are \$15.7 million including employee benefits of \$1.1 million.

Since becoming a department in 2003-2004, the Canada Firearms Centre has been reporting its licensing and registration activities to Parliament through its Departmental Performance Report, Report on Plans and Priorities and the Commissioner's Annual Report.

As of March 31, 2005, more than **7 million** firearms were registered with **6.76 million** firearms registered to individuals, **207,000** firearms registered to businesses and **40,000** firearms registered or recorded to public agencies and museums. In 2004-2005 alone, **352,000** firearms were registered.

In 2004-2005, the Canadian Firearms Registry Online service received approximately **2,000** daily queries from police and public safety officials.

Between December 1, 1998 and March 31, 2005, more than 13,500 firearm licences belonging to individuals have been refused (5,700) or revoked (7,800) for public safety reasons. Some reasons why firearms licence applications have been refused or licences revoked include: a history of violence, mental illness, the applicant is a potential risk to himself, herself or others, unsafe firearm use and storage, drug offences and providing false information.

NATIONAL DEFENCE

GAGETOWN—TESTING OF AGENT ORANGE AND AGENT PURPLE—TIMING IN RELATION TO STATED POSITION ON VIETNAM WAR

(Response to question raised by Hon. David Tkachuk on June 29, 2005)

For a total of seven days in 1966 and 1967 the Government cooperated with the United States to test a number of chemicals at CFB Gagetown, including Agent Orange and Agent Purple.

The purpose of these tests was to determine the effectiveness of the chemicals as defoliants.

A list of the chemicals tested in 1966 and 1967 can be found at Annex A.

Since the 1950s, various types of herbicides have been applied at CFB Gagetown to reduce brush in the training areas and to reduce the risk of forest fires.

A brush control program is necessary to keep the training areas free of foliage for good sight and mobility. Originally, these areas were cleared mechanically and re-growth occurred quickly. Herbicide spraying offered a more effective and cost efficient solution.

As well, many of the base's target ranges cannot be cleared mechanically or by hand due to unexploded ordinance. For these areas, spraying herbicides is the only available option to maintain a cleared target zone.

Today, the CFB Gagetown's brush control program follows all Provincial and Federal regulations and utilizes licensed applicators.

ANNEX A

Chemicals Used During Spraying Tests at CFB Gagetown

The following is a list of the 19 compounds used during the spraying tests in conjunction with the U.S. at CFB Gagetown in 1966 and 1967. They are identified by their common name and the year in which they were used.

Common Name	Year Used
Orange	1966 & 1967
Purple	1966
2,4-D	1967
HCA + T	1967
70% 2,4-D + 30% 2,4,5-T	1966
Picloram	1966 & 1967
White	1966 & 1967
Not provided in report	1966
Picloram Ester	1967
Picloram + Dalapon	1967
Paraquat	1967
Diquat	1966 & 1967
Not provided in report	1966
Cacodylic acid	1966
Cacodylic acid	1967
Penta	1967
Dinitro	1967
Benzoic Acid	1967

HEALTH

PUBLIC HEALTH AGENCY—WEST NILE VIRUS AND AVIAN FLU—EFFORTS TO CONTROL AND CONTAIN SPREAD

(Response to question raised by Hon. Wilbert J. Keon on June 14, 2005)

The international veterinary community recognises that vaccination of fowl is an acceptable tool for the control of foreign animal diseases such as avian influenza.

The World Health Organization for Animal Health (OIE) is the international animal health standard setting organization, and it recognizes vaccination as an acceptable tool in the most recent avian influenza chapter of the OIE Terrestrial Animal Health Code.

In Canada, the CFIA may choose to use vaccine as a control tool in the face of a serious outbreak of disease. However, our policy at the present time is to remove infected flocks rather than to vaccinate. This 'stamping out' policy is recognized internationally as more effective in that

it removes the virus rather than allowing for it to potentially remain at a low level and not detected. The use of avian influenza vaccine needs to be well-monitored since the level of protection is variable and vaccinated birds could get infected.

AGRICULTURE AND AGRI-FOOD

MONSANTO—STUDY ON GENETICALLY MODIFIED CORN—RIGHT OF PUBLIC TO BE INFORMED

(Response to question raised by Hon. Madeleine Plamondon on June 23, 2005)

Yes, MON 863 is used in Canada.

MON 863 was approved in March 2003 by Health Canada and the Canadian Food Inspection Agency (CFIA) for food, feed and cultivation in Canada, after a comprehensive assessment. This genetically modified corn line is resistant to damage by corn rootworm and has also been approved in Australia, Japan, the Philippines, Taiwan and the U.S.

Canadians and other members of the public have access to Decision Documents for all novel foods and feeds. The MON 863 documentation is available at the following Health Canada and CFIA websites:

- http://www.hc-sc.gc.ca/food-aliment/mh-dm/ofb-bba/nfi-ani/e_cry3bb1.html
- http:www.inspection.gc.ca/english/plaveg/bio/dd/dd0343e.shtml

Germany, the European Union (EU) member state responsible for the assessment of this product, had requested a 90 day feeding study in rats as part of its evaluation. Canada and other regulatory authorities do not normally require this type of animal feeding data to be submitted for assessment because of the known limitations of these studies. It is internationally recognized that conventional toxicological tests are of limited value in assessing whole foods.

Germany issued a positive initial assessment and forwarded it to the EU member states for review. After the French Commission for Genetic Engineering raised questions regarding the 90-day study in October 2003, supplemental analyses were provided by Monsanto. On April 2, 2004, the European Food Safety Authority concluded that MON 863 was unlikely to have an adverse affect on human health, based on the assessment of all the available data for this corn line, including the 90-day feeding study in rats.

Health Canada and CFIA have concluded that MON 863 is safe for food, feed and environmental release in Canada.

The rat feeding study is not secret. The developer of this corn variety has published the entire feeding study on its website.

INTERNATIONAL TRADE

SOFTWOOD LUMBER AGREEMENT—PAYMENT OF INDUSTRY LEGAL FEES—REQUEST FOR UPDATE

(Response to question raised by Hon. Gerry St. Germain on June 20, 2005)

The Government of Canada is sensitive to the impact that the dispute is having on the lumber industry in Canada and has announced \$20 million in assistance for lumber associations.

The government will work with industry associations over the coming months on the terms and conditions of the assistance.

The disbursement of funds can only follow Parliamentary approval of the Government of Canada's Supplementary Estimates (A), expected in late 2005.

[English]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hono Bill Rompkey (Deputy Leader of the Government): Honourable senators, I would like to call Bill C-38.

[Translation]

CIVIL MARRIAGE BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Carstairs, P.C., for the second reading of Bill C-38, respecting certain aspects of legal capacity for marriage for civil purposes.

Hon. Madeleine Plamondon: Honourable senators, I will be brief. Given my religious beliefs, I will be voting against Bill C-38 and I want these reasons to be made public and entered into the record.

Yesterday, as usual, the Honourable Senator Joyal gave a speech that was well structured, well researched, interesting and respectful of all concerned. I am not as eloquent as he is; he is skilled in the art of discourse and seasoned in all manner of political nuances. I do not have his ability; he found elements in the legislation to support his argument. I do not have his knowledge of the Senate and of what all senators have said or

done in the past, something that was extremely relevant to his remarks. I do not have his political experience. However, I still feel uneasy, even though this unease may not, perhaps, be justified.

If Prime Minister Martin had listened to his conscience and said publicly that he was unable to sanction same-sex marriage, would the government and the opposition not share the same political discourse? To what point will a party line, of any party, be toed? I will say that, as a Catholic, I feel part of an endangered minority. Being politically correct means that we have to be open, not only to ideas but to the point where we have to deny our faith in order not to be labelled homophobic.

Instead of quoting legislation, I will quote the apostle Peter who, on the eve of the death of Jesus, answered three times before the rooster crowed, "No, I do not know that man."

The Canadian Charter of Rights and Freedoms is important and, as its preamble states, it recognizes the supremacy of God and the role of the family in a free society. This freedom is based on respect for moral and spiritual values. As long as the Charter is in harmony with my spiritual beliefs, I will defend it, but if, as today, I am forced to choose between my conscience and the Charter, I will not hesitate: I will vote according to my conscience and, therefore, against Bill C-38.

I know that everyone has a different path to follow. I respect all the opinions that have been and that will be voiced, because I know that they are being made in good faith. But, as a Christian, I want to leave you with these words, which could apply equally to the Charter and the gospel, "If the world sings my praises when you blame me, will it save me when you judge me?"

On motion of Senator Stratton, debate adjourned.

[English]

ALLOCATION OF TIME FOR DEBATE— MOTION ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of July 4, 2005, moved:

That, pursuant to rule 39, not more than a further six hours of debate be allocated for the consideration of the second reading stage of Bill C-38, An Act respecting certain aspects of legal capacity for marriage for civil purposes;

That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the second reading stage of the said Bill; and

That any recorded vote or votes on the said question shall be taken in accordance with rule 39(4).

He said: Honourable senators, I think it is clear with the adjournment of the debate on Bill C-38 that it will not be possible to move ahead with as much reasonable speed as we and most Canadians would have liked. We on this side certainly cannot

allow any undue delay in the passage of this bill. We have seen that delay practised in the other place, and we have taken note of that. We have no choice but to introduce this motion in order to ensure that similar tactics to those used in the House of Commons are not practised here and that the bill —

Some Hon. Senators: Shame!

Senator Rompkey: — passes with a reasonable amount of debate and expedition. Our preference would have been to have reached agreement to allot a specific number of days to the debate, but we could not come to such an agreement. Once again, I emphasize that we have to move ahead and prevent any delay in the passage of the bill.

I have no doubt that my colleagues on the other side will argue that we are limiting debate on a very important matter and that all sides must be heard. I agree, but the fact of the matter is that much debate has already taken place in parts of the country and indeed in Parliament itself. I should like to spend some time outlining how much debate has taken place on this issue.

Going back to November 12, 2002, the Minister of Justice released a discussion paper on marriage and the legal recognition of same-sex unions. The discussion paper was referred to the Justice Committee in the other place. That committee travelled across Canada from November 2002 to April 2003, holding 27 public hearings and hearing from 467 witnesses.

On June 17, 2003, the government announced that it would introduce legislation to permit same-sex couples to marry across Canada, but first it referred the marriage reference to the Supreme Court. On December 9, 2004, the Supreme Court of Canada ruled on the marriage reference, giving the federal government the go-ahead to introduce legislation.

The federal government introduced Bill C-38, the Civil Marriage Act, on February 1, 2005. Second reading debate in the other place lasted 11 days, with 164 members of Parliament speaking for a total of 30 hours and 25 minutes. This is not rushing, honourable senators.

The legislative committee on Bill C-38 began their hearings on May 5, 2005. The committee held 19 meetings and heard from 75 witnesses. Another nine hours and 30 minutes were spent at report stage, with 33 MPs speaking.

Finally, third reading debate took place on June 28, and 26 members of the other place spoke, equalling another nine more hours and 40 minutes of debate on this issue.

• (1450)

This issue has been fully discussed and both sides have been heard. We are giving the opposition further time to discuss the substance of this bill. They are being given that opportunity, but it will be for a set period of time.

What we do not want is another series of delays and filibusters as was witnessed in the other place. As a matter of fact, the only reason Bill C-38 is before us now is because closure was successfully invoked at third reading in the other place.

Honourable senators, these are the reasons why it is important to pass this motion now and to refer the bill to committee where committee members can call witnesses, ask them questions and take the time needed to study the bill. Of course, there will be further opportunity for debate at third reading.

This is a debate that did not start this week, this month or this year. It has been going on in Canada for quite some time. It appears to me that Canadians have thought about the issue and have made up their minds about it. Parliamentarians on both sides of this chamber have made up their minds about it and want an opportunity to stand and to be counted. However, they do not want interminable debate and simply talking out the motion. It is important to pass this measure with a period of debate, but expeditiously and in a reasonable amount of time.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I really am rather surprised that the Deputy Leader of the Government would advocate the abolition of this place. It is amazing that the honourable senator says that we are delaying debate on this bill. We just started debating it yesterday. We have put up three speakers in the last two days. How many speakers has the government side put up?

Senator Kinsella: Two.

Senator Stratton: The question is: Who is delaying what? Why has the government not put up another speaker today? Who is delaying debate? Who is ignoring debate?

I am standing here because the government is shutting down debate on a critical issue, one which is divisive. It is something that should not be done. I do not believe that this bill is required because it is so divisive. It divides Canadians unnecessarily. I believe you are closing off debate because you know the longer it festers the worse it becomes for you.

Senator Kinsella: How many spoke in the other place?

Senator Stratton: Quite a substantial number.

Senator Tkachuk: They actually took the bill seriously.

Senator Stratton: There were 30-some hours of debate at second reading.

Thus far we have had five speakers in total on the bill. We have barely broached the subject at all.

Senator Cools: They do not care.

Senator Stratton: I think the government is worried more about what will transpire should this debate continue. I am prepared to sit all summer on this issue. I am sure others on this side are also prepared to do that.

The government wants to shut down debate because the issue is so highly polarized and divisive. That is why it is wrong. As Senator Kinsella pointed out so well in his speech yesterday, there are other solutions to this problem than the one that the government is advocating. We have not really explored those solutions.

Yesterday, the Leader of the Government in the Senate virtually told us that the leader of our party, Stephen Harper, and some members of our party are homophobic or anti-rights. Some other members of the party opposite have also alluded to that. That is wrong. It takes the level of debate down to where we do not want to go. It was totally inappropriate of the Leader of the Government in the Senate to do that.

I would like to remind honourable senators that when Paul Martin won the leadership of the Liberal Party, he said that he would do things differently in Ottawa. Democratic reform was at the top of the list of things that he wanted to do.

In February 2004, he issued an Action Plan for Democratic Reform, which included a letter signed by him that stated:

Democratic reform includes ensuring that members have greater freedom to voice their views and those of their constituents, reinforcing the role of House Committees and their capacity to influence and shape legislation, having Ministers engage Members and House Committees on policy priorities and legislation, giving Parliament a greater role in the appointment process for public office holders, and modernizing the procedures of the House of Commons.

Last night, debate was shut down. So much for democratic reform and doing things differently.

I wish to refer to a particularly interesting article that was written over a week ago by Norman Spector and which appeared in *The Globe and Mail*. He wrote:

To capture the essence of Mr. Martin's rhetoric, you have to refer to Harry G. Frankfurt, emeritus professor of philosophy at Princeton University.

"On B———t," a reprint of an academic paper the eminent Professor Frankfurt wrote nearly 20 years ago...

Mr. Spector then quoted *The Globe and Mail's Zsuzi Gartner*, who noted the article's applicability to our very own Prime Minister, who said:

For most people, the fact that a statement is false constitutes a reason...not to make the statement. For St. Augustine's pure liar, it is...a reason for making it. For the beer, it is itself neither a reason in favour nor a reason against.... The beer...does not reject the authority of the truth, as the liar does...he pays no attention to it at all.

Paul Martin knows that by stopping debate on Bill C-38 he is throwing his promised democratic reform out the window. He knows that he is tossing aside alternative solutions that could work in this country. We know there are alternative solutions, such as those proposed by Senator Kinsella. We know there are other ways of doing this. Instead, the Prime Minister chose to close debate and narrow it down to a very singular issue, which is inappropriate.

I could go on and on about the broken promises by this minister. For example, at the height of Adscam, the Prime Minister went on TV to plead with Canadians not to fire him. He told the nation:

If so much as a dollar is found to have made its way into the Liberal Party from ill-gotten gains, it will be repaid to the people of Canada.

Has that money been repaid? No. I look at that and say that I do not think the Prime Minister can be trusted at his word because he says one thing and then simply does another.

That has nothing to do with a Prime Minister who is concerned about the elimination of the democratic deficit. It was a statement by a highly partisan politician scrambling pathetically to cling to power. Unfortunately, he had forgotten the people who had voted for him and made him Prime Minister — the people of Canada.

Honourable senators, I will close on that point. This debate is being cut off prematurely. This chamber is known for its sober second thought, in particular the work that we do in our committees.

• (1500)

I do not think we have explored the debate to its fullest; in other words, existing options could be explored, not only to address the concerns on both sides, but also to satisfy the required needs on both sides, without dividing the country.

The Hon. the Speaker: Honourable senators, normally I would alternate. No honourable senator rising on the government side, I now go to the opposition side.

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, I had not intended to take part in the debate on Senator Rompkey's motion, but these arguments strike me as so weak and insulting to this institution of ours that I feel obliged to rise in order to inform him that the effort we put into our committees to enhance the work of this institution cannot be made a mockery of by the desire to put a rapid end to a very important debate.

I may seem to be in agreement with the government on this bill, but I do not accept being forced to move quickly when the other place had as many hours as they wanted to discuss it. We must hold a serious, interested and constructive debate. Even if the other place had taken a thousand hours to discuss it, that is of no importance to the Senate. We are deciding to debate this matter because our institution exists. As long as no new Fathers of

Confederation come along and decide we cannot hold debates, debates there will be! The arguments of the deputy leader are weak.

That being said, I agree with the government's bill. Just because the rest of the world or the country took part in a debate is no reason for us not to have one. Not to have one would be a disservice to our institution.

Hon. Marcel Prud'homme: Honourable senators, as they say, "fasten your seatbelts," you are in for a very long speech.

I totally agree with my friend Senator Nolin, although I still have not made up my mind. I totally agree with what he said. I am against and totally opposed to closing debates on such important issues.

If anyone wants to leave this chamber, or if anyone feels unable to stay in the Senate, then leave. There are others who will stay. I think it is a shame that our speaking time is being cut. That goes against everything I have always said the Senate should be. It should be a chamber that takes its time and does not listen to the hue and cry. I still have not made up my mind on the substance of the issue.

I agree with Senator Nolin when he says it is absolutely absurd that we are being told in advance what will happen: we are impatient, we will give you six hours, we will go to committee, you will leave on Thursday, you will come back in two weeks and, just like that, end of debate.

If there is a vote today or tomorrow, I hope to be available, because there are special events going on in Ottawa that I must preside over. I will vote against the closure motion if I am in the Senate. If I am not here, just remember that I said I was against this motion. I want to thank Senator Nolin for inspiring my comments yet again.

[English]

Hon. Anne C. Cools: Honourable senators, I am always disappointed when I see government senators cheering a motion for time allocation or closure. My understanding of these processes is that, regardless of the substantive side of the issue that one is on, the Houses should have ample and plenary debate.

Many government supporters really do not understand that every time they applaud these kinds of initiatives they are placing another nail in the coffin of the Senate.

There are many in this country — and I am beginning to reach that position myself — who feel that Parliament as a ministerial responsibility of a system is essentially lost. It has morphed into something, but I do not know what. Even the lexicon of the system has been lost. This motion, moved by Senator Rompkey, who is not even bothering to listen to the debate, is proof of the state of affairs in this country.

Honourable senators, the term "democratic deficit" was coined. Well, this sort of activity is living proof of the democratic deficit.

I am again disappointed in the paltry and insufficient comments made by the Deputy Leader of the Government. From what I can see, he is saying that the House of Commons has spoken, so there is no need for the Senate to speak. In short, he is saying little debate is good, less debate is better, and none is best. I find this attitude disturbing. I would have expected that, if the deputy leader or the government chooses to resort to a measure that is as stringent as this motion, at least some serious and substantive reasons would be put before the chamber, supported by some constitutional authority and, perhaps, even some policy authority. Honourable senators, it truly bothers me. I would ask this chamber to reject the proposition that Senator Rompkey has placed before us. The deputy leader can cite before us no reason whatsoever for the motion he has moved, and he can cite no circumstances in this place; however, what he does cite is events in the other place. Senator Rompkey expects us to believe the not even credible proposition that, because of events in the other place, there should be no debate or serious limitation on debate in this place. I wonder where the defenders of the Senate are. The deputy leader's proposition is shameful.

Senator Rompkey used the expression "interminable debate." I have news for Senator Rompkey. First, this chamber has, to date, not had a debate on the question of marriage. Second, the House of Commons barely had a debate. For the past many years, the Attorneys General and the Ministers of Justice have contrived to ensure that there was no debate on the floor of the House of Commons. Hence, the debate in the Houses of Parliament, far from being interminable, has been woefully inadequate vis-à-vis the enormity of the question that was put before us.

All I can conclude, honourable senators, is that this motion that has been put here has nothing to do with circumstances in this place but everything to do with the fact that the government considers any debate in this place to be an inconvenience and to be dispensed with. I should like to record my very serious objections to that phenomenon.

The motion before us is of the nature of a motion described in the literature as a guillotine motion. It testifies to the collapse of parliamentary government because, as a proposal for time allocation, it is an extreme and severe procedure that has the effect of throwing the house into a state of siege, into a state of parliamentary dictatorship, and that in advance of the debate itself.

• (1510)

This is not even a classic closure motion wherein the question before the house has been well debated. This is a guillotine motion, a very serious process that should be rarely used. When it is used, the mover of the motion is supposed to demonstrate exceptional circumstances that require the invocation of such an extreme measure.

I served here, honourable senators, with Allan J. MacEachen, who once told us that in his career as a cabinet minister in the other place he never once moved a motion of closure.

Senator Murray: Although he voted for quite a few of them.

Senator Cools: Undoubtedly, but he said he never moved one. The point is that he was expressing an opinion. Honourable senators need not worry because Mr. MacEachen is in a league of his own and remains a giant of a parliamentarian.

Some Hon. Senators: Hear, hear!

Senator Mercer: Finally something we agree on!

Senator Cools: Honourable senators, Mr. Hawtrey and Mr. Abraham, in their *Parliamentary Dictionary*, describe the guillotine motion as follows:

A colloquial term for an order made by the House of Commons fixing the amount of time which may be spent in discussing a particular bill or a particular section of a bill at various stages. Such orders are technically termed "allocation of time orders".

Honourable senators, in old parliamentary debates one finds that stringent requirements should be in play when such a motion is put before the chamber for its consideration and judgment. All the literature makes clear that a guillotine motion is naturally distasteful and repugnant to Parliament. The requirements are threefold. First, there should be a state of urgency. In other words, the measure that is required must be urgently required. There is some sort of an emergency in play, and the literature describes this requirement as "urgency."

Second, the opposition in this house must be fiercely obstructing the measure that is urgently needed.

Senator Nolin: This house.

Senator Cools: That is right; this house, not the other place.

Third, there must be obstruction, and the mover of the motion, who is usually a government member, is supposed to supply to members proof of the obstruction. An obstruction is not two, three or five days of debate. A good example of obstruction is the GST debate in 1990. I participated in that debate. I sat in this chamber 24 hours a day month after month after month because we were determined that the GST bill would not move. We were so determined that the bill would not move that we did not let the calendar of the day move for months and months. If one looks to the *Debates of the Senate* of that time, one will find that the date of the sitting did not change.

The Hon. the Speaker: Honourable senators, the rules provide for 10-minute speeches on these types of motions. Does the Honourable Senator Cools wish to ask for an extension of time?

Senator Cools: Honourable senators, I would love to have more time and my colleagues are prepared to defer to me.

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

Senator Cools: I want to know who said no.

Senator Prud'homme: Many people said no.

The Hon. the Speaker: Senator Cools is asking for leave to continue. Is leave granted, honourable senators?

Some Hon. Senators: No.

Senator Kinsella: Who said "no"?

Senator Comeau: Lapointe and Mercer. Mark them down. A former director of the Liberal Party.

Senator Cools: I 'will get hundreds of letters about this tomorrow.

Hon. Sharon Carstairs: Honourable senators, I am delighted to rise to join in this debate pursuant to a rule that, as we all remember, was used when the opposite side was on this side of the chamber.

Time allocation motions always evoke interesting debate. In my nearly 11 years in this place, I have never heard new arguments made on this side for moving time allocations, and I have never heard new arguments made on the other side for not moving it. It is important to examine the purpose of time allocation and how it can be put into force and effect.

First, there must be discussions between the sides. That is the first step in the rule that provides for time allocation. The Deputy Leader of the Government meets with the Deputy Leader of the Opposition in an attempt to reach agreement on when second reading stage of the bill can be concluded, which is what we are attempting to move to here.

We heard yesterday, when the Deputy Leader of the Government introduced his motion, that he tried to negotiate but that it did not work. There was no agreement to a specific number of days in which we could conclude second reading debate. Therefore, the government decided that it is now time to use the rule, so well put in the book by the other side, to conclude the debate at second reading stage. In order to do that, we must have six hours of debate.

Another interesting fact is important to remember. Again in my nearly 11 years in this place, I have never known a debate on a time allocation motion to occupy the full six hours. It always collapses. The aim is to pass this motion so that honourable senators on both sides can put on the record their very strongly and firmly held views on Bill C-38. Bill C-38 will then be referred to committee, where witnesses will be heard. The bill will then come back to this chamber for third reading and, honourable senators, I think we will all be well served.

Some Hon. Senators: Hear, hear!

Hon. David Tkachuk: Honourable senators, I rise to speak against the closure motion moved yesterday by Senator Rompkey. I have always believed that debate is not merely a frenzied attempt to deal with a matter without time to think. Perhaps people shot each other in years gone by when they disagreed because there was no time to think.

Closure causes us to complete our debate in one day, which gives us no time to contemplate what other senators have said or to research whether what they are telling us is true. We have no time to think about the consequences of what we are trying to do here.

If the whole idea of Parliament was efficiency, we would do this with every bill.

• (1520)

We would have a quick three-hour or six-hour debate. We would not care whether there was time for what we were talking about to get to the public. The idea of Parliament is to have what we say make its way somehow over time to the general public, the people we are representing. Parliament is not here just for us to talk to each other. Surely, if the only thing we had to do here was sit around and speak for 10 minutes over six hours on every piece of legislation that comes here, Parliament would be an awfully expensive debating club.

Many pieces of proposed legislation are given much debate. Yet, with respect to one of the most important pieces of proposed legislation to come before this chamber, the government has said, "Well, we have had lots of debate; the House of Commons has had debate."

What does that have to do with us? The Senate is one of three parts of Parliament. The Senate's purpose is to closely examine proposed legislation. If we accept Senator Carstairs' premise of just sitting around for six hours and getting it done, perhaps not even using the full six hours — forget about the idea of time, forget about the idea of engaging the general public, so that they have some say in this — and say that just because the bill was debated in the House of Commons we should accept it, then why are we here?

I have talked about this on other items of closure. If a debate has taken place over three or four months — for example, if the government is of the view that a particular matter has been the subject of significant debate, as was the case with the GST — then perhaps a motion like this is necessary. However, Bill C-38 has only had one day of debate. All of a sudden, because we adjourn the debate and want to think about it for a while, we hear, "Oh, gee, we should have closure."

We have all lamented at times the lack of coverage by the media of the Senate. It is actions such as this that give sustenance to the opinion that we are irrelevant. In meetings of the Transport and Communications Committee, I have inquired of a number of media companies, including *The Globe and Mail*, Global and CTV, whether their newsrooms have decided that the Senate is irrelevant. They have all assured me that they have not. I do not believe them. They have decided that we are irrelevant. Would we be acting this way if we were elected?

Senator Andreychuk: No.

Senator Tkachuk: I wonder how the Liberal senators from Alberta would be dealing with this legislation if they were elected. I wonder how the Liberal senators from Saskatchewan would be acting if we were elected. If the senators from Atlantic Canada were elected, how they would be acting in this place?

It is because we are buried in this place with no media attention that we can get away with this. That is the only reason we can get away with this, because nobody can see what we are doing. The media does not report on us and we do not have to face the electorate.

That, to me, is a dishonourable thing for us to do. That is why I do not support the position of the government on this matter.

[Translation]

Hon. Roméo Antonius Dallaire: Honourable senators, I realize that I am still a novice in this place and, consequently, I am quite surprised by the attitude often shown toward the usefulness and essential nature of this chamber.

If we belong to an organization, we do so with the purpose of being faithful to it because we believe in it and we pledge our allegiance to it. If we believe that this institution must change, it must be done in a way that is structured, according to an established process and in order to improve the fate of the institution.

Since my appointment to the Senate, I have received a great many requests — as I did before — to speak, discuss and take part in various activities. I respond that I cannot because I have a full-time job making an important contribution to the democratic process in our country, and that my presence in the Senate is required. And almost without exception people just laugh at me or tell me, "Be serious, it is more important for you to attend our event than the Senate."

I do not understand why, after so many years, we have such a bad reputation and are so misunderstood by society. We have not established a process, a methodology or an increased presence in this society that would convince the people about our work and how vital it is.

I constantly see RCMP officers in red uniforms. We see them at weddings, baptisms and funerals. They made a decision nearly five years ago, because they felt they were misunderstood, had a poor reputation and did not have a public presence. They said, "We have a strong image to offer Canada, because we are a Canadian entity that supports this democracy and the supremacy of law in Canada."

I think that we are capable of doing the same thing. We do not need to wear red outfits; we can establish a methodology to put an end to our self-accusations that our role is irrelevant. On the contrary, we must be proactive, take a leadership role in our society and "sell our product."

To come back to the speech by our colleague Senator Cools, I am surprised by her use of hyperbole. We cannot use the terms "dictatorship" and "Parliament" in the same sentence. That cannot exist. It is impossible. We are in an institution that reflects the democratic history of a country. The Liberal Party was elected and the Liberal Party has a leader who becomes the Prime

Minister. It is up to the Prime Minister to take decisions such as appointing Senators. It is an extension of the democratic process. I do not see the urgent need to call an election when valuable and pertinent work is being done.

Instead of throwing accusations at one another and making up stories about abusing the democratic system, we should be working on enhancing our presence, confirming the value of committee reports, and affirming the extent of our influence on the decisions from the other place.

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, I would like to join this debate briefly.

Senator St. Germain: What about a question?

Senator Kinsella: Can we not ask a question?

Senator Comeau: He still has time.

The Hon. the Speaker: I think a senator is rising to ask a question. It is up to you, Senator Dallaire, whether you will take a question.

Senator Cools: I wonder if Senator Dallaire would take a question.

Senator Dallaire: I am sure the question would be pertinent, and I certainly would respond.

Senator Cools: Is the honourable senator aware that, in the literature on closure motions and guillotine motions, this is the language that is used, that Parliament is thrown into a dictatorship, into a state of siege? Is the honourable senator aware that this is used frequently among the "authorities" on Parliament?

(1530)

Senator Dallaire: I cannot believe that we are using terminology like that in official responses or in the debate, because it is impossible to have Parliament, which is a democratic process, and to speak of dictatorship. We are using an instrument of Parliament that is procedural, that is accepted and that is used by the government in power when it feels that its use is essential Its use is by exception, and I totally agree with this exception. This is not anything other than the appropriate use of the proper procedures in the democratic process.

Senator Cools: Honourable senators, I wish to rise on a point of order.

Different senators come here with different experiences, and some senators have served less or more in this place.

Senator Austin: Honourable senators, I wonder if a point of order is in order during this debate.

The Hon. the Speaker: I am not aware of any rule, other than that points of order cannot be raised during our routine

proceedings, that prevents a point of order being raised. Whether or not there is a point of order is difficult to determine until one hears the claimed breach of order, so I will hear Senator Cools.

Senator Cools: Honourable senators, my understanding is that this motion is before us under rule 39, and rule 39 does not prohibit points of order.

Honourable senators, the expression "dictatorship" seems to shock Senator Dallaire. Perhaps because I have served here as long as I have, I am neither shocked nor surprised. The only surprise for me was the manner in which the leaders proposed this guillotine motion. That is the word that is used, because it stops and ends everything with great abruptness. This is a point of order. In fact, what surprises me is the lack of serious and good reasons for invoking such a stringent measure.

For the sake of Senator Dallaire, I would like to read from a book by Josef Redlich.

Your Honour, I ask that this be taken into consideration because of the notion before us. You would not want any honourable senators to entertain a thought that the language is somehow or the other improper or inappropriate. The document I cite is called, *The Procedure of the House of Commons: A Study of its History and Present Form.* It was written by Josef Redlich. I do not have the year it was published, but it is of some reasonable age.

The Hon. the Speaker: I am having difficulty hearing Senator Cools. If you could come to your point of order expeditiously, Senator Cools, I can allow other honourable senators to participate if I see a point of order. Please give me your point of order as quickly as possible.

Senator Cools: The use of terms such as "guillotine" or "dictatorship" are commonplace in debate on this particular procedure. I would like to refer to Chapter 3 of Redlich's book, *The Urgency Procedure and the Introduction of the Closure* (1881-1888). It says:

The resolution brought in by Mr. Gladstone with the object of preventing further Irish obstruction upon the Coercion bill is one of the most remarkable documents in English parliamentary history. Its contents may be characterised in one word. It proclaimed a parliamentary state of siege and introduced a dictatorship into the House of Commons.

The author, Mr. Redlich, proceeds to lay out the entire history of the origins of closure and subsequent time allocation systems. Therefore, honourable senators, it is in order to refer to a state of siege and to a state of dictatorship. That state is created far too frequently in today's community.

Honourable senators, I ask the Speaker to adjudicate as well the propriety of this motion being before us, because none of the requirements have been met that would give any reason, or even qualify the Speaker to put this motion before us for a vote. As His Honour would know, it is within the discretion of the Speaker to refuse to put a motion that is irregular or not in order. I contend, in addition, that this particular motion is out of order as well.

The Hon. the Speaker: I have listened to Senator Cools, and I thank her for her intervention. Her question is an anticipatory one at most. I do not find in it any matter of order. The motion we are on is a debatable one, albeit limited to a specific time: two and a half hours, ten minutes per senator, thirty minutes for the leaders and fifteen minutes, if we had any, for the leaders of official parties. We are in a different set of time references than normal, but apart from that, it is a debatable motion.

In the course of debate, I think the exchange that took place between Senator Dallaire and Senator Cools over the use of certain words does not involve any breach of order in that there is no evidence of this motion having been introduced improperly or the Senate having proceeded in any way not in accordance with our rules. Accordingly, I find the motion in order.

Senator Austin: Honourable senators, when I last rose to my feet, I said that I doubted it was a point of order. Senator Cools is famous for manufacturing debate opportunities out of alleged points of order. Believe me, we have had a long experience of that. Sometimes it was used from this side. Sometimes it is now used from that side. Honourable senators, it is not in accordance with the practices of this chamber and the fairness allowed to members to proceed contrary to the rules in the fashion that is familiar to Senator Cools.

Having said that, I point out, as did Senator Carstairs, that the time allocation rules are long-standing in parliamentary practice. I, however, put no negative charge against Senator Murray and his era when these rules were so designed. They were in accordance with parliamentary practice. Ample use has been made of this rule from time to time by all governments in this chamber and all government supporters in this chamber. The real issue here is not the rule, as some have said in their debate, but the necessity for applying the rule.

Honourable senators, as my colleagues Senator Rompkey and Senator Carstairs have said, we have sought an orderly process with respect to the debate on Bill C-38.

• (1540)

We believe that an orderly process is something that ought to have been negotiated. For the reasons that Senator Rompkey addressed, there has been extensive debate throughout the country. Ours is a chamber to review that debate in the context of Bill C-38, which is now before us.

When this debate was called this afternoon, there was no speaker speaking for the official opposition. Senator Plamondon spoke. She is an independent.

On our side, we believe that it would be of maximum value to the members of this chamber if the debate were allowed to proceed within rule 39 and the matter then referred to committee, where witnesses can be heard. With respect to the committee, we do want to hear from the Minister of Justice, who is willing to make himself available by video conference because he is in Europe. We do want to hear other appropriate witnesses, not to reargue the same propositions that have been maintained

everywhere else for so very long, but to know whether there are new insights that could bring a better judgment on the issues.

We would like to see what Senator Kinsella means in terms of a possible amendment and to consider it in the committee if he is prepared to introduce it there, or at least to have the further information that we need with respect to the amendment so that if he wishes to introduce it at third reading we have the opportunity at least to consider and examine the proposals in the committee.

Honourable senators, the situation is not one that I would like to see reduced to personal denunciation. I am very regretful that Senator Stratton referred to me as arguing that any member of Parliament was homophobic. I did not say so; I deny having said so and I do not believe that. I have not seen any evidence to establish that there is any member of Parliament in either house who has that attitude.

Honourable senators, I do however agree with Senator Stratton but on the other side of the point he makes. I do believe there are many in the other place and perhaps even some in this chamber who do not understand the concept of the equality of human rights. That is what our debate is about. That is what we are dealing with on the merits.

Honourable senators, finally, I wish to address the points Senator Dallaire was making. I appreciate his comments. Parliament is not merely a place for debate. Parliament is also a place for decisions. Our responsibility is to effectively raise the issues through debate and then to arrive at a time when a decision is to be made.

Honourable senators, we must move in an orderly way and we must take a decision on this bill. Therefore, I maintain that it is correct in both the rules and in the proper behaviour of this chamber that this motion be dealt with.

Hon. Lowell Murray: Honourable senators, in the spirit of decision making, we have been filling time here in a quite agreeable way this afternoon. However, while all this has been going on, Senator Rompkey and Senator Stratton have been leaving the chamber together, returning to the chamber together, leaving the chamber together, returning to the chamber together. In the spirit of decision making, may we now find out what they have decided so that we can know where we go from here?

Senator Prud'homme: Point of order.

Senator Rompkey: We have decided that the carpet in the chamber is in immediate need of repair.

The Hon. the Speaker: Honourable senators, comments made about points of order are much in my mind. If a senator is rising on a point of order, it is our practice to hear them first.

Senator Prud'homme: Your Honour, knowing your wisdom, you will stop me if I am not on a point of order.

Following on what Senator Murray has said, I was also witness to this movement in and out of the chamber.

I wish to repeat that there are 11 non-aligned senators: five independents, five Progressive Conservatives and one New Democrat. We are totally out in the bush. No one tells us anything. No one told us that Senator Robichaud has been elected as the fifth senator to sit on the conflict of interest committee. We are in limbo. It is as if we do not exist. It is my view we do exist and most of us contribute much more than any other 11 senators. Therefore, we would like to know what it is going on. I back what Senator Murray just said.

The Hon. the Speaker: We have a few minutes left on Senator Murray's 10 minutes. He has raised something that might be commented on or a question that someone might want to comment on in terms of what he is asking of the house leadership. If no one rises, I will see Senator St. Germain.

Hon. Gerry St. Germain: Honourable senators, I would like to enter this debate on closure because Canadians have a right to a full and unfettered debate on this issue. Those who would see this act as democratic really surprise me. Invoking closure after one day of debate is not democracy.

The government is trying to narrow Bill C-38 down to a human rights issue. It never has been and never will be. When Canadians went to the polls in the last election, they were not aware that this piece of legislation would be before the House of Commons or the Senate. Mr. Martin had clearly stated that this was not an issue with which he would deal. The fact is that he has continually said that judicial activism in the provinces have driven him to this decision.

Senator Austin: The Supreme Court made its decision.

Senator St. Germain: One of the senators from the other side spoke of the great democracy of this place and the other place. Why are we making reference to the Supreme Court? We must be respectful of the Supreme Court. However, the fact is that the Liberal government has misrepresented the facts to Canadians, whether we go back to wage and price controls in the 1970s, then in the late 1970s and early 1980s, 18 cents a gallon on gas, GST, free trade and same-sex marriage. The way the Liberals have presented things is a total disgrace. They invoke closure on anything that is contentious or anything that will embarrass them.

Honourable senators, I believe that we must debate this issue fully. To many of us, same-sex marriage goes to the very core of what we stand for as human beings. Senator Plamondon spoke of her position today and laid it out clearly. There are very few issues that go to the core of the moral and religious beliefs of people in this country. For the Liberal government to attempt to narrow the gap and ram this bill through is absolutely and unequivocally wrong and disgraceful because it is such an important issue to so many people.

It is a different situation for those who think that the country should be totally secular. For those who have their faith and beliefs, this bill is an intrusion into the foundation of section 2 of our Constitution, the freedom of expression of religion. For the government of the day to be derogatory toward anyone who speaks about restricting debate is an embarrassment to this place.

• (1550)

It is correct. We always wonder why we do not get publicity. Senator Dallaire spoke of how we have not got a better position in society. He spoke about the RCMP improving its image. What do we do at the end of term? We save up all our bills to the end and try to ram them through in one day. We wonder why Canadians question that.

I have seen it before, Senator Austin. Every time we come to Christmas and this time of the year, we try to ram things through. Just because we want to have a full, intelligent, constructive civil debate on an issue, we are ridiculed on this side. We will never improve our image in the eyes of Canadians if we do not deal with each piece of legislation in a systematic chronological method. Honourable senators, if we want to improve our image, we can do it in the way we conduct ourselves. Let us not try to get home; rather, let us do our work and do it properly on something that is truly important.

Senator Austin: Would the honourable senator take a question?

Senator St. Germain: Yes.

Senator Austin: Were you ever a member of government that brought in time allocation?

Senator St. Germain: Absolutely, we were part of it. I can remember the GST debate in this place. I will compare notes with you any time as to time allocation. I am not worried about that. Time allocation is time allocation, but after one day of debate do we try to sweep it under the rug, boys and girls? That is not the way it should be done, and I can tell you that there has been closure invoked by the government that I was part of.

If you look at the GST debate that went on in this place — I was not part of this place then — and if you think that was a time to be proud of being senators, believe me, you disgraced the Senate. It was your side that had kazoos, or whatever they call them, and all those other crazy things going on. I remember one senator reading into the record the book he wrote so he could get it translated. Do you believe that, honourable senators? That actually happened here. They read the book into the record so that he did not have to pay to get his publication translated.

Forget it, gang, you guys are out to lunch.

Senator Austin: Honourable senators, I am sorry I asked.

[Translation]

Hon. Gerald J. Comeau: Honourable senators, I am disappointed to hear Senator Rompkey saying that the debate on same-sex marriage is over, that all the discussion has been held, that there is nothing more to say. The House of Commons has done all the work so there is nothing more to do in this place.

Senator Dallaire has used the argument that the Prime Minister was entitled to invoke closure. Perhaps he does not understand that this chamber is part of Parliament, not part of the government. It is a separate chamber.

While not denying that Senator Dallaire is a man of experience, I would point out that decisions sometimes have to be made very quickly in the military from which he has come, but things are done very differently here in Parliament. Parliament was designed to avoid having to resort to the military. Debate takes time and can be costly, but what is the alternative to a worthwhile parliamentary debate? That is what we are discussing today: will there be a debate or will we make decisions immediately?

We could well ask all the questions quickly, as Senator Mercer has proposed, and do as we generally do in June. As Senator St. Germain has just said, every year in the month of June we pass a whole lot of bills at lightning speed, as we also do at the end of December. That is not our purpose. Our purpose is to examine issues, reflect on them and think before acting.

I am still interested in hearing the arguments from both sides. I do not, however, want to address the great debates that went on in the House of Commons. I would rather reflect on the arguments presented in this House. So far, I have not been impressed by the fact that we are going to have to move immediately to a guillotine motion.

[English]

I would like to cite *An Encyclopedia of Parliament*, Fourth Edition, by Norman Wilding and Philip Laundry. It makes reference to the word "guillotine":

Unlike a closure motion, which has to be passed when a question is actually before the House, an allocation of time or 'guillotine' motion is passed in advance of the debate it is proposed to limit.

[Translation]

Thus, debate is limited.

[English]

A 'guillotine' motion is designed to expedite the passage of a Bill, and seeks to do so by means of time-table, allotting a certain number of days....

And so on.

[Translation]

Somewhat later, they return to the guillotine.

[English]

The 'guillotine' is unpopular on all sides of the House. It renders the opposition ineffective and severely impairs the value of debate. Its only virtue is that of saving time, although a certain amount of time is always lost in the discussion of the motion itself. A Government is usually reluctant to propose its use...

[Translation]

Except this one, with all the stress it is under.

[English]

It "will only do so as a matter of urgency."

Where is the urgency here? Who is in such an all-fired hurry to get through this as quickly as they want?

For instance, a government might seek to call the guillotine into operation if it is being unduly harassed by delaying tactics or if fierce and prolonged debate is anticipated on a measure that threatens to disrupt the program for the session.

Fierce and prolonged debate by the great opposition of 22 who will cause you all kinds of grief — what is this chamber coming to? There are 22 of us, but we wanted to propose quality debate on this issue.

Apparently, it has all been done in the House of Commons, according to Senator Rompkey. According to Senator Dallaire, we have exhausted completely what we need to say on it. Let us quickly proceed to action as they do in the military. Make a decision and go for it. Ram the torpedoes.

That is not the way for Parliament to operate.

Let us take time to reflect. Let us take time to debate what is extremely important. I hear from people in my area that we should take our time on this, and reflect on what we are doing. Then, when we have properly taken the time to reflect, we will come to a decision.

[Translation]

We will reach that decision as quickly as possible and we will do so on behalf of our fellow citizens, without having to say that it has all been discussed in the House of Commons.

[English]

That would be an abdication of our responsibility as a chamber if we have to resort to saying that the House of Commons has done its work, and, therefore, there is nothing else for us to do. If that is the case, why would we be here?

• (1600)

Hon. Joan Fraser: Honourable senators, like Senator Prud'homme, I have the intention of making a long speech.

Senator Andreychuk: Good!

Senator Fraser: As an aside, like my colleagues, I was around during the last election campaign. I remember being clearly persuaded by the public discussion during the campaign that this bill would be before us. I do not find that surprising at all.

However, in my view, six hours of debate is a long debate. The motion now before us proposes six hours of debate. That length of time allows for 24 speakers, plus the five we have already heard, which makes 29. How many bills on second reading are addressed by 29 speakers in this chamber?

Senator Rompkey: There is still third reading.

Senator Fraser: There is still third reading. There is also committee study.

The only argument against not proceeding would be that in some way this bill had come as such a total surprise that senators needed months more to understand it and to make up their minds. As has been explained to us by the Deputy Leader of the Government, and by others, this issue has been before the country and Parliament for years. I suspect there is not a single member of this chamber who has not thought long and deeply about this question. It involves serious questions about the way in which we view society.

There is no surprise in this. It is time for us to take that six hours, say what we believe, and then do what the people of Canada pay us to do, which is to cast our votes.

Some Hon. Senators: Hear, hear!

Senator Tkachuk: Would the Honourable Senator Fraser take a question?

Senator Fraser: No.

Senator Cools: She will not debate.

Hon. Serge Joyal: Honourable senators, I will be brief. I wish to bring an additional dimension to the reflections we are having this afternoon on the motion of Senator Rompkey.

If honourable senators look at today's Order Paper, they will see on page 5, Motion No. 12 standing in the name of Senator Cools, Motion No. 12 states:

Second reading of Bill S-32, An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage.

Honourable senators, this motion has been on the Order Paper for years in various incarnations. I do not dispute for a fraction of a second the right of Senator Cools to postpone the debate on that proposed bill that has been on the Order Paper in many incarnations. I can do it. If we choose to keep an issue on the Order Paper, any one of us can do it. Of course, in all logic, if any senator presents a bill in this chamber and respects the legislative process, it is because that senator has a clear objective to draw the attention of colleagues to the issue of marriage, for instance.

This bill has reached 15 days. It has been rolled back for another 15 days, time and time again. As I said yesterday in my speech, Senator Cools put forward to the Supreme Court a well-articulated and well-argued brief. It was expected that at one point in time she would have an opportunity to raise those issues and we would review them.

What did we do? Both last winter and last spring, I proposed twice that the subject matter of marriage be studied by the Standing Senate Committee on Legal and Constitutional Affairs so that we could have an opportunity to review the brief of Senator Cools. I did that on February 23. To that request, we received a clear "no" from the representative of the opposition party. It is their right. I do not dispute that.

We raised it again a second time on March 9, which was a Wednesday, and a regular meeting day of the committee. Again, the answer was "no." I do not dispute that. They have the right not to want to discuss an issue.

We are now told that we need many more hours to discuss this issue. I humbly submit that the six-hour time limit in front of us will allow honourable senators to conclude the second reading stage of this bill. The Standing Senate Committee on Legal and Constitutional Affairs will then meet. Personally, I am ready to sit mornings, afternoons and evenings, five days in a row, if need be, to hear the arguments that any honourable senator wishes to bring forward. At some point in time we must know if we want it or not.

Some Hon. Senators: Hear, hear!

Senator Tkachuk: Would the honourable senator take a question?

Senator Joyal: With pleasure, Senator Tkachuk.

Senator Tkachuk: This is a question I wished to ask of Senator Fraser. However, I will ask it of Senator Joyal.

Will the minister appear before the committee to present the bill?

Senator Joyal: I might not be in a position to answer that question. However, because I am the sponsor of this bill at second reading, I met last week with officers of the department and the minister's office in preparation for this debate. I understand that this week the minister is travelling in France. In fact, if honourable senators have read the paper this morning, they will have seen that he received an honorary degree from an institute of law in Paris for his work in support of human rights.

Some Hon. Senators: Hear, hear!

Senator St. Germain: On secular rights.

Senator Joyal: The minister's assistant happened to be in the gallery this afternoon. I said there is no way that our committee would want to debate this bill without the testimony of the minister, especially in light of the question so rightly raised by Senator St. Germain. He needs an answer to his concern regarding the interpretation of the bill. In my opinion, the minister has the capacity to offer an answer.

I proposed that the minister and his officials appear by video conference. That is something which the Special Senate Committee on the Subject Matter of Bill C-36 did regularly and efficiently with the concurrence of former Senator Lynch-Staunton. We heard witnesses from Indonesia, New Zealand, London — from almost everywhere in the world — without having to leave Ottawa. We offered the minister the opportunity to appear via video conference. The minister has appeared many times before the committee. He is familiar with the regular members of the committee. We will have a good exchange with the minister. Because the minister has time available in his

European schedule, he has accepted to appear before the committee this Friday. He must also address various groups in Strasbourg and other places.

Many members on this side, including myself, have said that we are ready to listen to the minister on Friday, pending the fact that we get the bill into committee by Friday.

Senator Tkachuk: I do not understand this. Are we debating this closure motion today so that we can hear the minister on Friday?

Some Hon. Senators: Oh, oh!

Senator Tkachuk: Is that what this is all about?

Some Hon. Senators: No!

Senator Tkachuk: That is what this is all about. You know that is exactly what you said.

Senator Mahovlich: You misinterpreted.

Senator Tkachuk: My point is that a minister of your government does not think it is important enough to come to Ottawa to testify before the committee on a bill that you say is so important that we need a closure motion on it.

Senator Cools: And so urgent!

Senator Tkachuk: What is the minister doing all next week? Why is the minister not prepared to come before us to speak to his own bill?

Senator Joyal: Honourable senators, the minister makes himself available, as any minister makes himself or herself available, and proposes to the committee a date that fits within his agenda. The minister has proposed to make himself available this Friday by way of video conference. I feel that is totally amenable for any honourable senator who wants to attend the meeting of the Legal and Constitutional Affairs Committee.

• (1610)

Senator Tkachuk: What I am hearing, first, is that Parliament is here in Ottawa; not in Paris, Strasbourg or wherever he is. I hope he is having a very nice time, getting an honorary degree and all that. If this closure motion does not pass for some reason, and we do not have committee meetings until Monday and Tuesday, will the minister be available anytime after Friday?

Senator Joyal: In all fairness, honourable senators, I cannot answer that question. I do not know the agenda of the minister. The only thing I know is that, in his schedule — his travel was planned a long time ago — there is an opening for this Friday. I did not check for the next week or the week after. I did not want to inquire about that. The only thing I wanted to know is the soonest the minister would be available so that we would have the benefit of questioning him on all of the aspects of the bill raised yesterday by the Honourable Senators St. Germain, Kinsella and some others.

Senator Tkachuk: We hear on this side that the government denotes the importance of a bill by the symbolism and the treatment that they reserve for it. First, the honourable senator tells me that the minister does not think it is important enough to come back to Ottawa to deal with this bill or that he does not think we are important enough to come and deal with this bill. In both cases, I find it insulting that the person who is actually putting the bill forward and who thinks it is important enough that we have closure in this place, so that we can have a video conference on Friday rather than fully debate the bill and, perhaps, send it to committee next week, when the minister should be able to appear, but he will not be here. My view is this: No minister, no bill!

Senator Cools: That is right!

Senator Joyal: Honourable senators, I have attended all the meetings of the Standing Senate Committee on Legal and Constitutional Affairs where the minister was invited to appear and testify and for which he made himself available on each of those occasions, the last one being about 10 days ago on Bill C-2. The minister offers.

Senator Tkachuk: That is his job! He gets paid to do that.

Senator Joyal: The minister offered and shared all his knowledge and expertise with the members of the committee.

Senator Tkachuk: We are thrilled.

Senator Joyal: As a matter of fact, I think the minister was genuine in his testimony. I expect that the minister, knowing the importance and sensitivity of this issue, will want to help the committee members do a thorough study of this bill.

The Hon. the Speaker: I regret to advise that Senator Joyal's 10 minutes have expired.

Senator St. Germain: Could I ask for leave? I would like to ask him another question?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon, the Speaker: Only Senator Joyal can ask for leave.

Senator Cools: Yesterday Senator Rompkey did it.

Senator Joyal: Honourable senators, I have answered at length the concerns of the other side of the house on the testimony of the Minister of Justice.

Senator Prud'homme: Is that a yes or a no?

Hon. A. Raynell Andreychuk: Honourable senators, I wish to go on record supporting my colleagues on this side that this closure is not necessary and is an affront to the Senate. I want to deal with two points that I find surprising and disappointing that came up in the exchange that we just had. The exchange enlightened us and gave us information that we, as individual senators, do not otherwise have.

If we allow a minister to appear by video conference because he has a prior set schedule and does not believe it is more important to be here to represent his bill face-to-face with senators, it will set a precedent that each and every one of us, because of our schedules, which may be equally important —

Senator Kinsella: More!

Senator Andreychuk: — or, in some cases, more important, as Senator Kinsella says — can follow. We have already had a request by one of our own here in this chamber to do just that. How can we turn down a senator's request to be afforded the option of video conferencing once we do it for a minister? I think it would be highly improbable and unjust if we did not accept the request.

Personally, I said I would not participate in a study on subject-matter again after I participated in the one on anti-terrorism. I was assured that if we did a pre-study it would enlighten us and alert us to the issues and then we would have full and fair debate throughout the process of Parliament for second reading, committee stage and final stage. However, after I participated in the pre-study it went to the minister and it came back to the committee. What were we told? Well, you already had your chance to look at it and we shortened and shortened the debate. Not only did we shorten the debate on that piece of legislation, but on all the companion pieces of legislation.

Honourable senators, our rules were put in place for a purpose. They should not be casually put aside. I do not believe that because we said no to a study on the subject matter it should be used against us when we want to work on the subject itself through the elements of process we have in place here.

I thought all senators were independent and that in doing our work we would receive information from as many sources as we could find. Each of us is unique. We have different constituencies. Some of us belong to parties and are extremely loyal. Some are loyal but are guided by other concepts and other loyalties. We work differently. We place a high price on independence. What we are saying by closure in this case is that we do not have time for each other, that the debates that other people have had in other fora are more important. I thought this chamber was all about dialogue, debate and compromise and having heard varying points of view.

Make no mistake, honourable senators, the average Canadian has not been involved. Those who are deeply religious have been involved and the community that will be affected by same-sex marriage has been involved, not only with those who wish to avail themselves of marriage but also those who have to perform marriages and the provincial governments that have to implement it. Those groups have followed it. Certainly, from the people I talk to, they have some opinions, but not informed opinions. They look to the Senate and the House for informed opinion. If we do not do that, we have not served the public. Make no mistake, that members in the other place are accountable by election. We are not. We cannot afford to take shortcuts if we are to do our duty.

Finally, this is an issue about human rights. Any violation of human rights commands urgency. This is not just about same sex. This is about the right to freedom of expression and religion. It is about how we balance those elements. I think Senator Kinsella eloquently raised other aspects. That is what the Senate does well. We take what they do in the other place, which is highly driven by politics, and review it here. The Legal and Constitutional Affairs Committee in particular looks at the aspects of administration. We have said, "Is this ideologically a good bill? How will it be administered?" The devil is in the detail. The government may want a certain outcome, but what will happen when the legislation is put into practice? We who have sat on the Legal and Constitutional Affairs Committee for many years know that while the government may have a good idea, it often falters in practice. That is what I thought we would do, namely, look at how this bill would be administered.

Senator Kinsella has pointed out that there are better ways than dividing the community to achieve the objectives of the government. Surely we owe that to Canadians. We owe that to each other. I do not believe that the way to do business in this place is to shut down debate and say it is July.

• (1620)

I would accept closure if I believed there was an emergency. What about the human rights of Aboriginal people? Two reports of this Senate state that the rights of women and children on reserves are being violated. We have said that repeatedly, but I do not see a government bill to deal with that matter. We are not dealing with that problem with urgency.

Some say this is a matter of human rights. There are many human rights entrenched in the Charter of Rights and Freedoms that some Canadians are not enjoying, and that should be given equal attention.

Government members say that it is only closure, that we will have six more hours of debate at second reading stage of debate on Bill C-38, then committee hearings and third reading debate. However, the air goes out of the balloon the minute closure is imposed. Why would I talk to people who do not want to hear me? Why would I attend committee hearings when the minister will be available only this Friday and only by video conference? What reason do I have to believe that the government will listen to what I have to say about amending the bill in committee or at third reading?

This is the point where it becomes clear whether the Senate is independent or is just an organ of government without the power that the House of Commons has.

Senator Prud'homme: Will the Honourable Senator Andreychuk accept a question?

Senator Andreychuk: Yes.

Senator Prud'homme: We have been told that the minister can appear before the committee by video conference. Is not the first duty of a minister to answer to Parliament? Unfortunately, the CBC and everyone else has said that Parliament has adjourned, but the Senate will continue. That is unbelievable. The Senate is Parliament.

Is it not true that the minister's first and greatest responsibility is to answer to Parliament, of which we are a part? Does the minister want to avoid the press? It is easier to avoid a press scrum in Ottawa by appearing via video conference than it is to be here in person.

The minister received this great award on Sunday. The award reads:

[Translation]

Mr. Cotler, in recognition of his career dedicated to defending human rights and protecting vulnerable people throughout the world.

[English]

This is a great award, but he received it last Sunday. What is he doing next week?

The Hon. the Speaker: I regret to advise that the 10 minutes allotted to Senator Andreychuk have expired.

Senator St. Germain: I have a question for Senator Andreychuk.

The Hon. the Speaker: The rules limit speeches on a time allocation motion to 10 minutes.

Senator Andreychuk: I request leave for additional time.

Some Hon, Senators: No.

Senator St. Germain: We will remember that!

Senator Comeau: Mercer said no.

Senator Andreychuk: Senator Austin said no.

Senator Austin: I would like to hear some new points of view.

The Hon. the Speaker: Senator Andreychuk has asked for additional time. Is leave granted, honourable senators?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: I am sorry, Senator Andreychuk, leave is not granted.

I see no senator rising to speak. As honourable senators know, the motion can be neither amended nor adjourned. When debate is completed, the obligation of the Speaker is to put the question.

Seeing no senator rising, I take it that debate is completed. I will put the question.

It was moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Robichaud:

That, pursuant to rule 39, not more than a further six hours of debate be allocated for the consideration of the second reading stage of Bill C-38, An Act respecting certain aspects of legal capacity for marriage for civil purposes;

That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the second reading stage of the said Bill; and

That any recorded vote or votes on the said question shall be taken in accordance with rule 39(4).

Those honourable senators in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon, the Speaker: Those honourable senators opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: The rule provides for a one-hour bell, honourable senators.

Hon. Fernand Robichaud: I propose a 30-minute bell.

Hon. Marjory LeBreton: I agree to 30 minutes.

The Hon, the Speaker: Is that agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: We will have a 30-minute bell with the vote to be held at 4:58 p.m.

Do I have permission to leave the chair, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Call in the senators.

• (1650)

Motion agreed to on the following division:

YEAS THE HONOURABLE SENATORS

Joyal Austin Bacon Kirby Lapointe Banks Bryden Maheu Mahovlich Callbeck Corbin Mercer Milne Carstairs Chaput Mitchell Christensen Pearson Cook Pépin Cordy Peterson Phalen Cowan Dallaire Poulin Day Poy Downe Ringuette Dyck Robichaud Eggleton Rompkey Fitzpatrick Stollery Fraser Tardif Jaffer Trenholme Counsell—40

NAYS THE HONOURABLE SENATORS

Andreychuk LeBreton Buchanan McCoy Cochrane Nolin Comeau Plamondon Cools Prud'homme Forrestall St. Germain Johnson Stratton Keon Tkachuk-17 Kinsella

ABSTENTIONS THE HONOURABLE SENATORS

Hervieux-Payette

Spivak—2

(1700)

BILL TO AUTHORIZE MINISTER OF FINANCE TO MAKE CERTAIN PAYMENTS

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Eggleton, P.C., seconded by the Honourable Senator Baker, P.C., for the second reading of Bill C-48, to authorize the Minister of Finance to make certain payments.

Hon. Gerry St. Germain: Honourable senators, I am pleased today to offer some remarks on Bill C-48, which deals with the New Democratic Party's budget.

I would like to begin by reminding all honourable senators of a passage from the February 2004 Speech from the Throne:

Aboriginal Canadians have not fully shared in our nation's good fortune. While some progress has been made, the conditions in far too many Aboriginal communities can only be described as shameful. This offends our values. It is in our collective interest to turn the corner. And we must start now.

The use of this word "shameful" to describe many Aboriginal communities struck a chord with people right across Canada. "Shameful" is a strong word and, unfortunately in this instance, a very appropriate one. Perhaps at the time Canadians thought that the Speech from the Throne would signal a renewed willingness on behalf of the federal government to deal with the issues facing Aboriginal peoples quickly and in an innovative matter. However, this has not yet come to pass.

Not too long ago, the United Nations released a report that illustrated how far Aboriginal peoples in our country have yet to come. The report makes the following observation:

Poverty, infant mortality, unemployment, morbidity, suicide, criminal detention, children on welfare, women victims of abuse, child prostitution, are all much higher among Aboriginal people than in any other sector of Canadian society.

The litany of problems facing First Nations communities, as laid out in the UN report, does not tell Canadians anything we did not already know. These problems are well documented and long-standing. However, another part of the UN report may prove more surprising:

If Canada's ranking on the human development index were based solely on the lives of registered Indians, Canada's ranking would plummet, from the eighth best country in the world in which to live to number 48.

Honourable senators, with both the United Nations report and the Speech from the Throne in mind, I would like to take a look at the bill before us today.

On the face of it, the bill authorizes massive levels of spending, including \$1.5 billion for access to training and post-secondary education, to benefit Aboriginal Canadians, among others. It also allocates \$1.6 billion for affordable housing, including housing for Aboriginal Canadians. However, just how much of this money will benefit Aboriginal Canadians is nowhere to be found in the bill. Nothing in the NDP budget suggests that this money will be provided in conjunction with an evaluation of the situation or a well-thought-out plan.

This bill contains no move by the federal government to seek greater assurances that the \$10 billion spent annually on Aboriginal programs and services will go to those who need it in an effective and timely manner. In fact, Bill C-48 will add millions more in unfocused spending.

I would like to point out that the original agreement reached between the Liberal government and the New Democratic Party contained little to supplement the meagre provisions for Aboriginal peoples made in the finance minister's version of the federal budget, which was tabled on February 23 of this year. In fact, it appears that one element of the NDP budget particular to Aboriginal peoples was added as little more than an afterthought. I am referring to the post-secondary education portion of the bill.

According to Mr. Jack Layton, leader of the New Democratic Party, the budget deal initially promised an increase of \$1.5 billion over two years in provincial transfer payments for the purpose of tuition reduction and to provide training programs for unemployed workers. Bill C-48 removes specific mention of tuition reduction but added that this money should "benefit, among others, Aboriginal Canadians." That is not very definitive.

Honourable senators, as I have said, the bill does not state how much of this money should be allocated for Aboriginal education or how it should be used.

Last November, the Auditor General reminded us of the widening education gap between the high school graduation rates of First Nations people living on reserve and the Canadian population as a whole. This gap, my friends, will take 28 years to close.

Despite the \$1 billion allocated annually for primary and secondary education by Indian and Northern Affairs Canada, the education gap has actually increased since 2000. That year, the Auditor General issued a similar alarm about the mess that characterizes the funding and delivery of Aboriginal education.

Honourable senators, we are talking here about an entire generation of Aboriginal men and women who are being kept on the sidelines. A country as blessed as Canada, which offers its citizens so many advantages and opportunities, should never accept a situation like this. Its government should not accept the situation either. We do not fix it, however, by throwing more money at programs that do not meet their objectives. We fix it by making sure that the money currently available is spent effectively to provide young Aboriginals with the highest quality of education.

While the NDP budget will provide more spending, it does not pay any regard whatsoever to another very important part of the Auditor General's warning. In last November's report, the Auditor General told us that the department does not know if the funds it provides to students are sufficient, if the funds it provides are enough to meet the department's own educational standards, or — and this is very important — if the funds are even used for their intended purpose. The department simply does not know these things and because it does not know, Parliament does not know. The Treasury Board Secretariat does not know. In fact, no one knows. Is that how we improve Aboriginal education in this country, with ignorance and a lack of accountability?

As the Honourable Leader of the Opposition in the Senate has pointed out in reference to post-secondary education, and as Senator Keon has told us with respect to our health care system, throwing piles of money at a given problem without a clear assessment of the reality of the situation will never solve anything. We need a frank assessment of what is working and what is not.

• (1710)

Honourable senators, let us now consider the other element of the bill that is particular to Aboriginal Canadians, which is housing. As I have said, the NDP budget sets aside \$1.6 billion for affordable housing, including housing for Aboriginal Canadians. There is no way of knowing how much of this money is allocated for Aboriginal housing, whether it would go to the building of new homes or whether it will provide much-needed upgrades and repairs to existing homes. We do not know if it will go towards new programs or if it will be funnelled into the department's housing program. We do not know if it will be limited solely to housing on reserve or if some portion will be set aside for off-reserve housing.

There is no question that housing conditions on reserves across Canada are in need of improvement, and more money is required to address the problems. This situation is reflected in the words of Mr. Richard Jock of the Assembly of First Nations, who recently said to the House of Commons Finance Committee, "When you're in desperate need, you don't necessarily look a possible gift horse in the mouth." The original version of this year's budget tabled by Finance Minister Goodale provided \$295 million over five years for housing construction and renovation on reserves. It is interesting that the original budget plan found this amount to be sufficient. Page 96 of the 2005 budget plan states that the original amount set aside was "enough to stem the growing shortage of housing units and begin to eliminate it."

As was the case with the post-secondary education component, the original press release from Jack Layton on April 27 contains different information than what is found in this bill. Mr. Layton said that the affordable housing allocation would hold "a dedicated fund for aboriginal housing construction to improve the appalling living conditions many Aboriginal peoples face. This money is not contingent upon provincial matching funds, since this requirement has been proven to fail in the delivery of affordable housing construction."

None of this is found in the bill. Only when the government found itself on shaky political grounds did it decide to increase this funding.

Again, I must stress that we do not know how much will go to Aboriginal housing or what plans this money will follow. This information just does not exist.

Honourable senators, the complete lack of consultation behind the bill is amazing and, in my view, unprecedented. Beyond the ongoing roundtable process, was there any consultation with Aboriginal peoples on this specific bill? Did anyone ask their priorities in these areas? I understand the AFN will be lobbying for between one half and one third of this new money to be directed towards First Nations.

Honourable senators, these kinds of funding decisions usually take place before the money has been set aside, not after.

An NDP member of the other place, Mr. Pat Martin, who is also the party's Aboriginal Affairs critic, told *The Globe and Mail* on May 4 that three ministers of the Crown had approached him

to encourage spending for First Nations in the crafting of this bill. This claim only served to further illustrate the irrelevancy of the Finance Minister, whose cabinet colleagues turned not to him but to the NDP to seek changes to the federal budget.

Those who have been lauding this deal would do well to remember the federal government's track record with providing the funding it has promised in a timely manner and in full.

For example, Finance Minister Goodale's version of the budget highlighted a federal commitment made at last September's first ministers' meeting to provide \$700 million over five years for Aboriginal health care. However, instead of building on this commitment, this year's original budget actually made funding cuts in the area of Aboriginal health.

I draw your attention to a press release, dated February 24, from the Assembly of First Nations. It noted that the budget removed \$27 million in funding from the coverage of non-insured health benefits, which provides medically necessary goods and services to about 700,000 treaty Indians and recognized Inuit and Innu.

In addition, the original budget will phase out \$36 million in funding for the First Nations and Inuit Health Information System, which will result in its shutting down.

The Assembly of First Nations also expressed its disappointment that the \$700-million investment did not constitute new money, as the budget reassigned \$75 million from previously announced programs, such as the Aboriginal Diabetes Initiative.

I should also like to remind all honourable senators that, in March, the Minister of Health acknowledged that First Nations communities had not yet received this money and could not say when it would be made available. This is a commitment that was made about 10 months ago. Where is the money?

Honourable senators, examples of the federal government's mismanagement in the area of Aboriginal Affairs are not hard to find, but one particularly painful example could be found in a system that provides compensation to residential school abuse survivors. When the federal government instituted the alternative dispute resolution process, also known as ADR, it argued that dealing with the claims in this way, outside of the normal litigation route, would prove to be more efficient and timely. The facts do not bear this out. In fact, I would say that the failings of the resolution process have re-victimized people who have already suffered enough. The numbers paint for us a system that did not work as the government said it would. The department acknowledges that between November 2003 and February of this year, almost 1,300 claimants applied for ADR, but only 79 former students have seen their cases settled. The Assembly of First Nations has said that, at this rate, it will take 53 years to resolve all the claims, at an administrative cost of \$2 billion.

The CBC reported in April that, over a 16-month period, the ADR process paid out about \$1 million in compensation in total, while the administrative costs during that time amounted to \$34 million — \$1 million cost \$34 million to administer.

A few months ago, the Deputy Prime Minister, who is the minister responsible for Indian Residential Schools Resolution Canada, told a committee of the other place that there has been no mismanagement of the ADR process. I find that statement incredible. Where can we find efficiency in a process that took so long to settle a handful of cases? Where is the good financial management in a department that has invested the vast majority of its spending over several years towards administrative costs and lawyer's fees and not the victims?

Honourable senators, I wish to point out that Bill C-48 follows the federal government's method of dealing with matters affecting First Nations peoples. This can be summed up in its response to the October 2003 report of the Standing Senate Committee on Aboriginal Peoples, a report entitled *Urban Aboriginal Youth: An Action Plan for Change*. Very little in the government's response would indicate its willingness to move forward on the recommendations brought forward by that very excellent committee. Many of the government's answers were vague responses to specific recommendations made over a year and half ago.

The Minister of State for Northern Development, the Honourable Ethel Blondin-Andrew, appeared before the committee to speak about the government's response to the committee report. She admitted that the department still has a lot of work to do to assist urban Aboriginal youth. The minister said, "What the department currently offers them is spotty and in need of better coordination." Those words could be stretched to cover much of the department.

Canada's Aboriginal population is young, with almost 40 per cent under the age of 19. These young people will need more than superficial concern.

The Hon. the Speaker pro tempore: I regret to inform you that your time has expired, Senator St. Germain.

Senator St. Germain: Thank you very much, Your Honour. I have only a few words left to read in my speech.

The Hon. the Speaker pro tempore: In that case, you may finish your speech.

Senator St. Germain: These young people will need more than superficial concern.

I believe that new ideas are necessary, ideas that are not rooted in policies bound by the past. These ideas must come from all parties, especially the young people themselves.

Honourable senators, this bill speaks in generalities. The Aboriginal people of Canada want specifics. They cannot live in a world of generalities.

Senator Joyal was part of the constitutional package of 1982 whereby we were going to right the wrongs to our Aboriginal peoples. We were going to make things right. We are 23 years down the road, and they are still living in total despair. Davis Inlet still exists, as it did with the relocation of these people.

I would ask all honourable senators to make certain that, when we make financial commitments, they are not hollow promises based on nothing. We need sound, positive results. This is a human rights issue, if ever there was one.

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, I rise today at second reading on Bill C-48, to authorize the Minister of Finance to make certain payments, in order to set the record straight.

First, before I comment on the bill itself, I want to respond to certain statements by Senator Mitchell that I consider unjustified. In his opinion, a so-called cooperative agreement reached a few weeks ago between the Conservative Party and the Bloc Québécois threatened national unity.

• (1720)

Honourable senators, Senator Mitchell and I agree on one thing only: the Bloc Québécois is a sovereigntist party whose sole objective is to demonstrate that Canada does not work and that it will never fulfill the real aspirations of Quebecers.

That said, I believe it is important to remind him that the Bloc Québécois was created because the Meech Lake Accord was rejected, particularly by former Prime Ministers Pierre Elliott Trudeau and Jean Chrétien, at the end of the 1980s. If this historic accord, which satisfied Quebec's five traditional demands, had been adopted, the sovereigntist movement would never have been revived in the early 1990s. I want to remind you that these five demands were made by both Premier René Lévesque and Premier Robert Bourassa. The Bloc Québécois would never have won 54 seats in the 1993 federal election. Perhaps it would never even have been created! Ultimately, our country would never have found itself on the edge of a precipice on the evening of October 30, 1995.

To those who might try to minimize the shock wave that was sent through Quebec with the failure of this accord, I will remind you of the earnest statement that the former federalist Premier of Quebec, Robert Bourassa, made on June 22, 1990, on the eve of the official failure of the Meech Lake accord.

English Canada must clearly understand, Quebec is today and for all times a distinct society, free and capable of assuming its destiny and its development.

Honourable senators, I can assure you that as a member of the Quebec "no" committee, I witnessed the harmful consequences of this tragic event for national unity throughout the difficult 1995 referendum campaign. I was not alone in making this observation. Some members of the current government did as well.

In asking Robert Bourassa a question during a debate on the failure of the Meech Lake accord for his book *Gouverner le Québec*, Stéphane Dion, who was a political science professor at the University of Montreal at the time, said:

After Meech, we would have had stability for a very long time. The worst constitutional mistake of this country was probably Mr. Trudeau's campaign against Meech.

In this context, honourable senators, we on this side of the chamber — and I think this position is shared by the other side of the chamber as well and by everyone — do not need any lessons from the current government on how to promote national unity, since it has shown to what extent it can be a serious threat to national unity! If you do not believe me, then just look at the various polls on support for Quebec's sovereignty since the spectacular revelations of Jean Brault at the Gomery inquiry.

An opinion poll conducted by CROP for the Montreal daily *La Presse* yields some rather troubling data. According to a poll released on July 2, 55 per cent of Quebecers today would vote in favour of Quebec's sovereignty in combination with a partnership with the rest of Canada — the question they were asked in 1995.

Surprisingly, close to 45 per cent of Quebecers would vote "yes" to a sovereign Quebec without any political association with Canada!

I must remind you that, at the start of the 1995 referendum campaign, close to 45 per cent of Quebecers were already in favour of the concept of sovereignty-association before the referendum came along. Today, that same percentage, 45 per cent, supports the concept of pure sovereignty.

Never has there been such support for Quebec sovereignty since the failure of the Meech Lake accord. Is that really the fault of the Conservative Party?

Truth to tell — and Senator Mitchell is well aware of this — the sponsorship scandal is one of the main causes of the rapid increase in support for the sovereignist option in Quebec.

Rather than respond to the profound aspirations of Quebecers, in keeping with his solemn promise just days before the referendum, former Prime Minister Chrétien found nothing better to do than inundate Quebec with pro-Canada advertising.

Let us not be afraid of calling a spade a spade. The government wanted to buy Quebecers' votes and hearts without any thought to the long-term consequences of doing so.

Honourable senators, this government has unfortunately made a miserable showing in other ways than its acceptance of Quebec's traditional demands. National unity has also been seriously compromised since 1994 by the deterioration of federal-provincial relations. There is no doubt that this phenomenon has also been worsened by the problem of fiscal imbalance.

Now getting back to the debate on Bill C-48, the problem of fiscal imbalance was wholly the creation of the present Prime Minister back in the days when he was Minister of Finance. This is, without a doubt, one more cause of the increase in sovereignist fervour in Quebec. To some extent, the introduction of Bill C-48 bears witness to that rather sad situation.

Unfortunately, more often that not throughout the entire 20th century, expansion of the federal government's role has caused friction with the provinces. This did not reach the serious level, however, that it did in the 1990s, with this government's cavalier handling of its relations with the provinces. The arrogant way in which this government pits one province against another, with the ultimate goal of gaining control, is a source of great concern.

After ten years of Liberal reign, can we truly blame the provincial premiers for constantly mistrusting Ottawa, which shamelessly uses its spending powers to impose its own views?

Can we criticize the provinces and territories for having created the Council of the Federation in order to better confront a federal government that is hostile to their needs? Honourable senators, is this how our founding fathers imagined the agreement of 1867, an agreement based on compromise, mutual respect and equality between the two levels of government within our federation?

I am pleased to remind you of something that former Prime Minister Pierre Elliott Trudeau wrote in 1957, when he was a journalist, in an article published in *Cité Libre*, in which he addressed the fiscal imbalance as he saw it.

...If a government had such an excess of revenue and undertook to ensure the part of the common good that fell outside its jurisdiction, there arose the presumption that that government had taken more than its share of taxable capacity.

As you know, between 1995 and 1999, the government unilaterally and drastically slashed federal transfer payments to the provinces by several billion dollars. In 2002, a poll conducted for the Commission québécoise sur le déséquilibre fiscal revealed that over 66 per cent of Canadians acknowledged the existence of this serious problem undermining our social fabric and national unity.

Each year, Canadians realize that the federal government surpluses increase substantially and unjustly.

• (1730)

For example, for the year 2004-05, the government initially announced a smallish surplus of \$1.9 billion in its budget speech, which is relatively normal.

This magically swelled to over \$14 billion in the latest federal budget, and then to \$19 billion, according to the April issue of *The Fiscal Monitor*, a fiscal performance review published by the federal Minister of Finance.

According to the latest budget figures, this leeway could reach the \$100 billion level over the next six years, while a number of provinces, Quebec and Ontario not the least of them, will be confronted with budget deficits because of their spiraling health costs.

On February 5, 2000, Hon. Jean Lapierre, Mr. Martin's current political lieutenant in Quebec, wrote the following in the ultraconservative journal *Les Affaires:*

Pockets bulging with what is estimated to be a \$100 billion-plus surplus for the next five years, the federal government is taking a cavalier and paternalistic approach to the provinces. This Ottawa-knows-best attitude is beginning to rub the taxpayers the wrong way. After all, their coffers are overflowing because we are paying too much in taxes.

Once again, Canadians have become aware of this sad reality with the Prime Minister's introduction of Bill C-48 intended to save his scandal-plagued government. That bill, incidentally, had nothing at all to do with the Minister of Finance's financial and fiscal priorities.

That minister forecasts expenditures of \$4.5 billion tops, several components of which concern areas of provincial responsibility. Once again, they are blithely and shameless invading areas of provincial jurisdiction, that is, provincial responsibilities as defined by our constitution.

The government therefore had a fresh, unheard-of opportunity to sit down with the provinces in a true partnership to attempt to resolve the problem of the fiscal imbalance, as well as perhaps bolstering our federation.

What did it do? It gave up the future and the proper functioning of our country for its own partisan interests.

The government concocted a budgetary agreement with the New Democratic Party about which we know very little concerning how it will be carried out, who will get the money, which departments will be responsible for the financial management, or how the provinces will be involved.

For example, clause 2 of Bill C-48 includes a \$1.5 billion expenditure in the area of post-secondary education. Unless there is evidence to the contrary, honourable senators, you will agree, this area of activity is exclusively a provincial jurisdiction.

How will this money be spent? Will it be transferred to the provinces through the Canada Social Transfer or the highly controversial Canada Millennium Scholarship Foundation?

Since Quebec has its own loans and bursary program, will the money simply be transferred to that province so that it can find its own way to resolve the critical funding problem for the CEGEPs and universities, and the student debt problem, within the framework of its own constitutional jurisdiction in matters of education? I doubt it.

Clause 3 of this bill only vaguely proposes all of these options.

For this reason, I believe that Bill C-48 is far from being a crucial step in improving federal-provincial relations or budgetary practices and will instead confirm the fact that the government does not, in any way whatsoever, recognize the fiscal imbalance.

It is even worse, given that an amendment to the Speech from the Throne, passed unanimously by the other place last October, urged the federal government to resolve this problem. Since Bill C-48 does not in any way respect that amendment or the fundamental principles of healthy budgetary planning, I will vote against it.

In closing, if national unity is being threatened today, we have only the current government to blame.

The Conservative Party created Canada, despite opposition from Sir Wilfrid Laurier. My political party, the Conservative Party of Canada, tried honestly to bring Quebec into the Canadian family, with honour and enthusiasm, in the words of a prime minister whose name I will not mention.

The Hon. the Speaker pro tempore: Your time is up. Is it your pleasure, honourable senators, to extend the speaking time of Senator Nolin?

[English]

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I believe the usual agreement is five minutes.

The Hon. the Speaker pro tempore: Is it agreed, honourable senators?

Hon. Senators: Agreed.

[Translation]

Senator Nolin: In the coming years, as we have done since Confederation began and as we will continue to do in the future, my political party, with the support of a majority of Canadians of good faith, will work hard to respect the Canadian pact in order to reinforce national unity and, unfortunately but necessarily, address the spectre of Quebec's separation.

The Conservative Party of Canada will show Canadians and Quebecers in particular that when all the partners in our federation respect one another and work together, our country can accomplish great things.

It will prove that the ideal defended by Sir George-Étienne Cartier and Sir John A. Macdonald, although greatly sullied over the past decade, is still alive and well in this country.

In closing, I want to address the point made by our colleague Senator Eggleton. With regard to the 1993 deficit, stop treating us like idiots. The then Auditor General clearly explained it to you. You cooked the books. When you came to power in the fall of 1993, you set out expenditures for 1994 in 1993, thereby increasing the deficit to \$42 billion. Stop trying to mislead us. You sat at the table, Senator Eggleton.

As for the increase in the GDP, as several of your colleagues have suggested to you during your speech, I refer you to the revenues resulting from the Canada-United States agreements on trade and the revenues from the GST, in the coffers of the Minister of National Revenue. You will understand the reason for the increase in Canada's GDP.

Since you raised the issue of your government's major priorities in your remarks, how is it that, in your famous Bill C-48 — we are no longer talking about Bill C-43, on the budget — which is an addition to the budget, you did not consider it a priority to make up for the cuts you made between 1995 and 1999? Why did you not take this opportunity to restore funding to the official languages support program in minority communities and make that a priority? We would have started to believe in your real priorities instead of concluding that Bill C-48 is nothing more than a shameless partisan measure?

Hon. Marcel Prud'homme: Honourable senators, I want to remain true to the memory of Mr. Trudeau. I will ask the senator to make a brief comment. Was rejecting the Victoria Charter, which would have resolved all our problems, not one of Quebec's greatest mistakes of all time? I think that this position has been well defended by Mr. Beaudoin.

We know it was because of those I have always referred to, although perhaps not politely, as the three Claudes, Claude Castonguay, Claude Morin — who was on the RCMP payroll — and Claude Ryan, that the Victoria Charter was stillborn, unfortunately. Mr. Bourassa had supported it but had to withdraw his support when he came back to Quebec. We know it would have resolved all the problems we have encountered since. Out of respect for history, we must acknowledge that the Victoria Charter was certainly an extraordinary masterpiece.

While not being one to defend those who are no longer here to defend themselves, I would like to share what I saw.

• (1740)

Senator Nolin: Honourable senators, there is no doubt whatsoever that had there been agreement on the Victoria Charter this could have been a very good step toward a solution. However, we must not lose sight of the fact that, when ten first ministers ratified the Charter of Rights and Freedoms in 1982, this was a charter of individual rights. That is why René Lévesque decided — and rightfully so — against signing it, since we have had collective rights in Quebec since 1763, and all representatives of Quebec, regardless of political stripe, have always defended those rights. This is why the Meech Lake accord was important: it successfully married individual rights as recognized by the Charter — and no one questions the importance of those rights — with the collective rights of Quebecers and other Canadians living in other provinces, which the Victoria Charter did not. One of those rights is raised by the debate on another bill.

Senator Ringuette: We were second-class workers.

Senator Nolin: No, you also had collective rights in New Brunswick. One of the beauties of this country is, moreover, that individual and collective rights are able to coexist. But for this coexistence to have a legal basis, we must ensure that the courts are properly aware of them, hence the importance of the distinct society clause.

[English]

Hon. Noël A. Kinsella (Leader of the Opposition): I take it that no one on the other side wishes to participate in this debate. Therefore, I shall participate in this debate.

I listened carefully to Senator Eggleton's speech on Bill C-48; it was interesting but, in my judgment, not very convincing. I listened carefully as Senator Tkachuk made some very convincing arguments. I listened to Senator St. Germain and now, very eloquently, Senator Nolin.

I am of the view now, unless I hear more convincing arguments to the contrary, that this bill is not worth supporting, even in principle, at second reading.

However, there are many other reasons why the bill should not be supported, in addition to the reasons that were so well articulated by my colleagues. I will focus on the area of education.

Senator Eggleton, who has vast experience in the other place, sponsored the bill in this chamber. Whilst this bill is entitled "An Act to authorize the Minister of Finance to make certain payments," the bill, oddly enough, does not have a short title. A bill usually has a short title. Thus, it is left to the great unwashed rest of us to identify it by short title. It is not surprising, therefore, that Bill C-48 has been referred to as the "socialist budget" or the "Liberal-NDP budget" or the "budget companion bill." In light of the fact that it seems to have barely a passing acquaintance with planning, which is the hallmark of a budgetary process, perhaps it might best be called the "blow the budget" bill.

Honourable senators, both Senator Tkachuk and Senator Nolin's remarks offer a useful description of the difficulties such a bill poses for parliamentarians.

The dearth of detail means that we are being asked to approve discretionary spending in the amount of \$4.5 billion, with only a general idea of the broad areas to which the additional spending is supposed to be devoted.

For those who have not yet had a chance to peruse the bill, I would note that it contains just three clauses in two pages. When we consider the relatively detailed control structures surrounding monies that were diverted to Liberal friends and to the Liberal Party coffers through the AdScam profiteering effort, I expect the Auditor General will find this process of more than passing interest.

Although I need no more argument as to why this bill is not worthy of support, I should like to examine briefly paragraph 2(1)(b), which allocates up to \$1.5 billion — and I quote:

for supporting training programs and enhancing access to post-secondary education, to benefit, among others, aboriginal Canadians, an amount not exceeding \$1.5 billion.

Senators Nolin and St. Germain have alluded to this clause in a general way. In addition to what we have heard from Senators St. Germain and Nolin, honourable senators will be surprised to learn that this paragraph contains within it — well hidden, mind

you — a pledge to reduce tuition fees for post-secondary education. Senator Nolin just reminded us that it is ultra vires for the Parliament of Canada to be setting tuition rates. This matter is for provincial jurisdictions.

I cannot base what I just said on the actual wording of the bill, because there are so few words in the details, but, rather, in reliance on the news releases and media coverage that followed on the heels of the bargain reached between the Prime Minister and the leader of the New Democratic Party.

Canadians are only too well aware of the fact that tuition costs are indeed mounting and that these costs present significant challenges to individuals wishing to pursue higher education. The goal of lower tuition is certainly a goal that I support and, based upon debates we have had in this place on that topic, a goal supported by many honourable senators on all sides of the house.

It is always worth underscoring, honourable senators, particularly in these days where much of our debate is on different topics, that the issue of human rights norms is advanced. Interestingly, a certain amount of cherry-picking takes place. If it is supportive of the government's position on an issue, defenders will articulate a human rights instrument, and some particularly define human rights. If it is not convenient, or if it is not supportive of a given position, defenders will not underscore human rights instruments or define human rights. This is why I now wish to draw attention to article 13(2) of the International Covenant on Economic, Social and Cultural Rights, an international human rights treaty binding on Canada as a state party, a treaty that has been in the corpus of international human rights to which Canada has been bound for a long number of years. That article provides as follows:

The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

- (a) Primary education shall be compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education.

In clause (c) — which I shall now read — the term "higher education" is the United Nations' terminology for post-secondary education.

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education.

• (1750)

That is an obligation undertaken by Canada under international treaty law and not being complied with.

Honourable senators, in many provinces the exact opposite is going on. Higher education has become more expensive for students and their families as tuition fees have been increased to cover a greater proportion of the costs.

This brings me to the public pronouncements on April 26 of this year, made at the time the Faustian bargain was struck to divert some \$4.5 billion from the normal budgetary process into the bill presently before us. On that day, April 26, Mr. Layton stated the following:

It appears likely that we will have an agreement in principle reached with the government. Families will pay less for their kids' education.

The text of this budget bill agreement states:

\$1.5 billion in total measures in two areas: to enhance access to post-secondary education, particularly aimed at assisting students through tuition reduction or other measures as appropriate; as well as money to support training programs, with no obligation for provincial matching funds. Both measures will include Aboriginal Canadians.

Honourable senators, Mr. Layton could not have been clearer. Tuition reduction was part and parcel of the agreement. Thus, current and future post-secondary students would be relieved of some of the burden placed on them by tuition and other ancillary fees.

Across the country, immediately after the agreement was publicly announced, expectations were raised. The Canadian Alliance of Student Associations, which represents some 300,000 students, issued its press release, from which I quote:

The increase of \$1.5 billion in transfer payments, a portion of which is committed to the reduction of tuition fees, is a positive step to addressing the complete lack of attention afforded to education in the last federal budget.

In addition, the Canadian Federation of Students issued their press release on the same day, from which I quote:

The deal reached between Prime Minister Paul Martin and NDP Leader Jack Layton is good for post-secondary education according to the Canadian Federation of Students. Among other initiatives, the agreement reached between the federal Liberals and the NDP will allocate more funding to the provinces in return for reducing tuition fees.

Honourable senators, media from coast to coast broadcast the news that tuition relief was on its way. Unfortunately, neither the word "tuition" nor the word "reduction" is anywhere to be found in this bill that is before us. It may have been a simple oversight in the drafting of the bill, one which might be corrected through an amendment, or it may be that, once again, Canadians and students have been led down the proverbial garden path.

My hope is that if and when this bill reaches a standing Senate committee, members of that committee will take their time to explicate that issue, probe into the depths of that commitment, and report to this chamber with the assurance that we will see a timeline as to when this money will flow and that it will be demonstrated that tuition at our universities will be, indeed, reduced.

Even if an express commitment to tuition reduction was included in the bill, it would be virtually meaningless in the absence of provincial agreement, which was the point just underscored by Senator Nolin. As he has indicated, there is no confusion as to jurisdiction in this manner. Section 93 of the Constitution Act of 1867 begins as follows:

In and for each Province the Legislature may exclusively make Laws in relation to Education...

Tuition at publicly funded post secondary institutions remains the sole jurisdiction of the provinces. That factor is important and must be borne in mind when it comes to policy matters and efforts by the federal government to interfere.

The undeniable fact of the matter is that the Government of Canada handled this matter irresponsibly. A major funding initiative was announced without anything resembling a comprehensive legislative framework or agreement with the provinces to back it up. Moreover, the government did not even bother undertake to undertake that crucial step of first negotiating an agreement with the provinces and territories. To use the oft-quoted analogy, they put the cart before the horse.

Had the federal government really intended to take a proactive approach to tuition fees, we would be facing a completely different scenario with federal-provincial consultations leading to an agreement.

Honourable senators, having a meeting such as this would have provided the provinces and the territories with the opportunity for significant debate and for the establishment of clear objectives to which all stakeholders could lend their mutual support.

The absence of a plan for lowering tuition has not gone unnoticed by the media. On April 29, the Montreal *Gazette* stated the following in an editorial:

How will the \$1.5 billion over two years ear-marked for tuition cuts be allocated? Per student, or on the basis of existing tuition rates? If the latter, will Martin be able to justify giving Quebec less than other provinces where fees are higher? What happens when the two-year deal expires and the provinces stop getting this money? Will provincial governments have to suck up the cost, or will tuition rise? Do provinces get any say in this?

Honourable senators, I notice that we are approaching six o'clock. Rather than be interrupted, I wonder if the Deputy Leader of the Government would express his wish.

Senator Rompkey: I believe there would be a consensus not to see the clock.

The Hon. the Speaker: Is it agreed, honourable senators, that we not see the clock?

Hon. Senators: Agreed.

Senator Kinsella: Honourable senators, from that editorial in the Montreal Gazette, I found it interesting that the day before in The Globe and Mail, a column written by John Ibbitson also noted some of the pitfalls of this haphazard approach to tuition relief proffered by the Liberals and the socialists:

The \$1.5 billion is to be spread over two years. All premiers would want to ask Prime Minister Paul Martin a few questions such as what happens after two years? Does the money stop coming, leaving us to pick up the tab? Or is this really an offer of an additional \$750 million in annual transfers?

Perhaps Senator Eggleton could answer that question. If not, we had better get an answer to that question in committee.

To continue with John Ibbitson's article:

No premier should sign any agreement to take the new federal money for post-secondary education without a written guarantee that the funding increase is permanent, and won't be sabotaged by future cuts in federal transfers in other areas. That, of course, would require a meeting of first ministers, complete with asymmetrical agreements and provincial reporting mechanisms.

(1800)

Honourable senators, these views about the government's erratic approach are not just the musings of various columnists. Dalton McGuinty, the Liberal Premier of Ontario was, I would suggest, less than charitable in his reaction to this hastily arranged addendum to government expenditure. On April 28, Premier McGuinty was quoted in the *Ottawa Citizen* as follows:

It is of passing interest that I certainly wasn't consulted on this either as head of the Council of the Federation or as premier of Ontario.

Premier McGuinty went on to note that his colleagues were likely in the same situation. He stated:

I don't believe that any one of my 12 counterparts across the country were consulted either.

Convening a federal-provincial conference on this matter in advance of trying to push legislation through Parliament would have been the prudent and responsible choice. It would have given Canadians a clear indication of exactly what their hard-earned tax dollars would be funding. There is ample precedent for such a conference between federal and provincial leaders. Less than one year ago, the Prime Minister, provincial and territorial leaders gathered at the Conference Centre in Ottawa to come to terms on a new funding allocation for health care in Canada. In addition, despite the difficult moments during the negotiation process, the premiers of Newfoundland and Labrador and Nova Scotia reached a deal with the Prime Minister on the terms of the Atlantic accord.

That is how the process in Canada is supposed to work. This government, however, has decided to completely ignore the

provinces and territories and their sphere of jurisdiction. That is obviously part of the price being paid for the support of the 19 New Democratic Party members in the other place.

Honourable senators, the problems I have indicated thus far are reason enough for one to be in ardent opposition to the legislation before us. Unfortunately, there are more problems. Specifically, this bill further nullifies the role of Parliament by granting virtually untrammelled power to cabinet to spend this money in whatever manner it deems fit. By cost comparison, the sponsorship program could be considered a minor aberration when viewed beside this lightly-worded but extremely expensive piece of legislation.

Bill C-48 extracts a large sum of money from the public treasury with no details and virtually no controls. One might ask where Parliament fits into this equation. Notwithstanding the rather novel analysis of our democratic parliamentary system that we heard earlier this afternoon, it seems clear to me that if this chamber passes this bill as it now stands, the rest is in the hands of cabinet. How can we properly fulfil our role of scrutiny and examination of taxpayers' funds if we allow an additional \$4.5 billion to be spent with only a flimsy two-page document as our frame of reference?

Sadly, the problems of parliamentary oversight and lack of planning are not the only ones that plague Bill C-48. As Senator St. Germain noted, Aboriginal Canadians are likely to get short shrift, should this bill proceed. In my view, the Senate, as an institution, desires positive outcomes for all Canadians, in particular Aboriginal Canadians. As all senators are aware, especially those serving on the Standing Senate Committee on Aboriginal Peoples, First Nations Canadians face great challenges and, overall, their socio-economic prospects lag behind those of non-Aboriginals. This situation is clearly unacceptable and I believe that members on all sides of this chamber are interested in having this change for the better. This legislation makes only passing mention of improving access to higher education for Aboriginal Canadians and, as expected, fails to state how this will be done.

According to the Auditor General, the Department of Indian and Northern Affairs already has much to do to improve accountability in its handling of post-secondary student support programs. In the Auditor General's report of November 2004, we read:

...in examining program implementation and accountability under the new framework, we found significant weaknesses in a number of areas. These included ambiguity in the Department's roles and responsibilities, potential inequities in how funds are allocated, a lack of clearly defined expected results, limited program and performance information, and discrepancies in the information provided to the Treasury Board.

Honourable senators, the Auditor General's report went on to note the following:

In our opinion, these weaknesses seriously undermine the capacity of the Department and First Nations to work together toward achieving the program's objective, using

resources effectively to produce expected results, measuring and reporting performance, and taking corrective action when necessary.

These aforementioned statements from the Auditor General's report indicate to me that current mechanisms for post-secondary education support for Aboriginal Canadians are not, in the judgment of the Auditor General of Canada, entirely effective. The department must do more to demonstrate accountability and transparency. Moreover, the department must ensure that First Nations peoples receive access to higher education. Knowledge and skills development are necessary ingredients in the recipe for economic prosperity, and we must do all we can to ensure that the Aboriginal peoples of Canada have full access to those opportunities.

Again, Bill C-48 pays lip service to the ostensible goal of enhancing access to post-secondary education by our First Nations peoples, but there is no plan, no framework, and an existing apparatus that, in the judgment of the Auditor General, is flawed.

Higher education is a societal matter that should not be used as a pawn for political expediency. It is only through concrete action that we, as parliamentarians, can achieve positive outcomes for Canadian students, present and future. My judgment on this front, as on all the other fronts that have been articulated so far, is that this bill is a dismal failure, not the least in the appalling lack of vision it represents. The Canadian people expect and deserve much more than what this bill offers them.

Hon. Sharon Carstairs: Honourable senators, never do I understand better why I sit on the government side than during debates on fiscal policy that always emanate from the budget.

Unlike colleagues on the opposite side who have spoken against Bill C-48, I think it is an excellent bill.

Hon. Senators: Hear, hear!

Senator Carstairs: As politicians, we always want to have our cake and eat it too.

• (1810)

However, what we heard in some of the debate today is the kind of thing I have been hearing for years. It is that we need more tax cuts. I have to tell you, honourable senators, that I have never been a great believer in Reaganomics because I do not think it ever does filter down to the people in this country who need it the most. Almost always, when we have tax cuts, it is the rich who benefit, not the poor.

Honourable senators, when I hear rhetoric from the other side about the need for tax cuts or how they will result in higher productivity, I look at the American presidencies. When have they had the highest deficits? It was under Ronald Reagan and now under George W. Bush. That is the reality of so-called Reaganomics.

I look at the success of the Liberal government since 1997, with eight successive balanced budgets and with surpluses, and then I look at the other side. Having sat in this seat for a while, I know the kinds of questions that have emanated: "Why are you always underestimating your surpluses? Why are you not more fiscally responsible?"

In this bill, we actually have a very good first start. After some months, we can project a surplus and then spend that surplus to enhance already good programming. We can make that good programming just that little bit better.

When I look at the \$4.5 billion commitment over two years, which will only come forward should there be the kind of surpluses that we anticipate, I look at the five areas in which this money will be spent.

The first is in the area of housing for two specific groups of people: our Aboriginal people and our homeless people. For those senators who have not had the same opportunity to visit reserves as I have had, let me say that when you drive onto the reserve sometimes you must land because you can only get there by aircraft — the very first thing that strikes you is the totally inadequate housing. We know that sometimes there are 25 people living in a home. I do not disagree with anything that Senator St. Germain said about the educational needs of our Aboriginal community. However, as an educator, I can say that it is awfully hard to teach a hungry child. It is very hard to teach a child who or does not come, as the case may be — to school because they do not have any clothes. It is very hard to teach an Aboriginal child who does not have adequate housing, because when that many people are living together, those children do not have regular bedtimes. That often means they do not have regular get-up times and, as a result, they frequently are not in the very classrooms where an educator would need to have them to have any impact on them.

When I see the government specifically targeting housing for our First Nations people, I say hallelujah; it is a much-needed step forward. I see them targeting the homeless.

Honourable senators are well aware of my deep commitment to the issue of palliative care. One of the most interesting projects that we have in Canada is the palliative care beds located in the mission here in the city of Ottawa, which the government wants to use as a model to spread elsewhere. The reality is that the homeless do not like institutions very much generally and will not go into the hospital. They sometimes will not even go to a hospice if such a hospice is available, but they will go to the mission and accept care. If any of this money can find its way into homeless initiatives across the country that will provide for those homeless people who are dying on our streets, then I say hallelujah.

Honourable senators, when I look at the third objective, which is public transit, then again I say this is a very positive initiative. We know that we have a serious pollution problem in this country. How many senators have grandchildren out there with puffers in their pockets?

Senator Stratton: None if they live in Western Canada.

Senator Carstairs: I have to tell you, Senator Stratton, I live in Western Canada in the very same city that you do and never in the history of my province and my city — and your city — have so many children been walking around with puffers. The reality is that one of the major causes of asthma in young children is pollution, and one of the major causes of pollution is the number of automobiles on our roads. One way to address that significant problem is, quite frankly, by investing in a major way in public transit. When I see additions to a public transit initiative, I say hallelujah.

Honourable senators, I was extraordinarily proud of our Prime Minister when he said, "I will not make a commitment if I cannot meet that commitment." We look at other countries, and we know from tsunami relief, earthquake relief and all kinds of other initiatives that they make great pledges but do not deliver. One thing about Canada, whether it was under the previous Mulroney government or this government, is that when we make a commitment to be there in terms of fiscal contribution, we are there

Yes, I would like our foreign aid to get to 0.7 per cent of GDP tomorrow. However, the reality is that we probably cannot do that. I have enormous respect for a Prime Minister who says, "I will get there as fast as I can, but I will not make commitments to the international community until I am fully assured that I can honour those commitments."

Honourable senators, I am bullish on this particular package of new budgetary measures. They can only enhance the lives of those in this country who need it the most. However, I also am bullish on the fact that the government once again is showing its fiscal responsibility. It is saying: We are looking forward to spending our surplus in this direction. These are the directions we want to go. We are very confident we will have it but, again, we are not making commitments we cannot keep. That, to me, is the very best thing about being a Liberal.

Hon. David Tkachuk: Will the honourable senator take a question?

• (1820)

Senator Carstairs: Of course.

Senator Tkachuk: The senator talked with great passion about housing. Mr. Joe Fontana, the Minister of Labour and Housing, testified on June 13 in the Commons Finance Committee. I would like to quote him. In his statement, he said:

Originally, our government committed to spending \$1.5 billion over five years, which was reiterated by Minister Goodale following the tabling of the budget in 2005.

This committee meeting was on Bill C-48.

Bill C-48 — has now accelerated that commitment to two years and increased it to \$1.6 billion, obviously with the assistance of some of our partners. As the finance minister has already mentioned, the accelerated delivery is contingent on year-end surpluses.

He said that there was \$1.5 billion allocated in the budget over five years. They took that \$1.5 billion and made it \$1.6 billion and said that instead of spending it over five years, they would spend it over two years. There really is not \$1.5 billion new money, but perhaps the senator might answer that. Is it \$1.5 billion of new money over the top of the budget, or is it simply the same amount of money increased by \$100 million and accelerated over two years?

Senator Carstairs: Honourable senators, we need to get this into committee so we can ask the minister those kinds of questions. That is the purpose of the excellent committee study that we undertake in the Senate of Canada. The reality is that \$1.6 billion over two years is a lot better than \$1.5 billion over five years, and that means enhanced housing for the homeless and the Aboriginal people.

Senator Tkachuk: I am sure when we look at the transcripts, Senator Carstairs said new money. This is not new money. This is the same money that is in the Goodale budget, increased by \$100 million and squeezed from five years to two years. Then you run around the country and say, "There is \$1.5 billion in new money." That is not what the Minister of Labour and Housing said in committee in the House of Commons. He said, and I will quote it again, because this is a big deal here:

Bill C-48 has now accelerated that commitment to two years and increased it to \$1.6 billion ...

He increased the \$1.5 billion to \$1.6 billion. That is all he did. It is \$100 million worth of money. It is not new money, so why all this talk about all the great things you will do with all that extra money? Are we counting this money twice? Are we counting the money in the Goodale budget and the money in this budget? Are you counting it twice? We are confused here about what kind of sham you are trying to put over on the Canadian people, and it is a sham

Senator Carstairs: I was not a mathematics teacher, but I think I can multiply and divide: \$1.5 billion over five years is \$0.3 billion, and \$1.6 billion over two years is \$0.8 billion. It seems to me that is a significant difference and a significant additional amount of money.

Senator Robichaud: Do you need a calculator?

Senator Stratton: Just a few billion dollars. This is obviously not new money. It is just old money squeezed.

On motion of Senator Stratton, debate adjourned.

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Your Honour, I think that if you were to seek the consensus of the chamber, you would find that there is a consensus to stand all other items on the Order Paper, including government items, to the next sitting of the Senate and that they stand in their place.

The Hon. the Speaker: I do not think I need to repeat that. It was fairly straightforward.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I have one question. Is there still a commitment from Senator Austin to speak tomorrow on the 0.7 per cent?

Hon. Jack Austin (Leader of the Government): I hope to do that. I am still working on the address. It is my intention to speak tomorrow.

Senator Stratton: That is the commitment I would ask, because we had that commitment for today.

The Hon. the Speaker: Honourable senators, the Deputy Leader of the Government has asked if we have an agreement, and I put that question to you, that we stand remaining items on the Order Paper, that they remain in their place to the next sitting and that we proceed to the adjournment motion. It is agreed, honourable senators?

Hon. Senators: Agreed.

The Senate adjourned until Wednesday, July 6, 2005, at 1:30 p.m.

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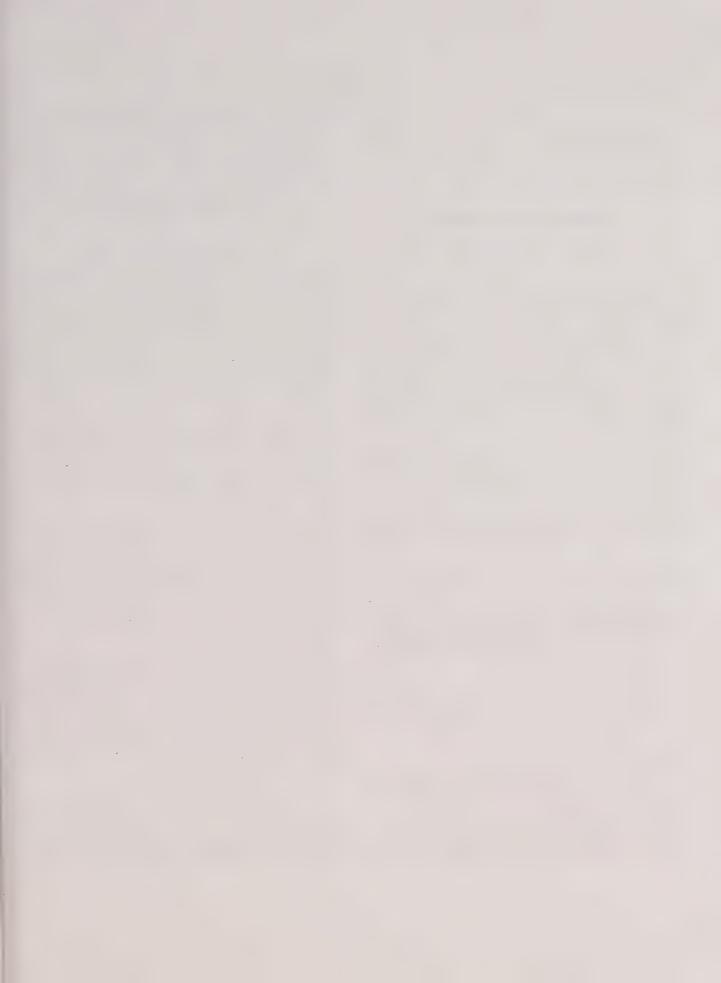
OFFICIAL REPORT (HANSARD)

Wednesday, July 6, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

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THE SENATE

Wednesday, July 6, 2005

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

ACTION AGAINST POVERTY

Hon. A. Raynell Andreychuk: Honourable senators, this year is the most significant year for world leaders. With the Gleneagles G8 Summit, there is an opportunity to give not charity but effective aid. With the backdrop of the New Partnership for Africa's Development, NEPAD, where African leaders made undertakings for good governance and new accountability in Africa, and with the Kananaskis commitments lead by former Prime Minister Chrétien, plans were begun to mobilize world opinion and government action. Our Minister of Finance signed on to the recommendations and commitments in the Blair commission. Now, we have the Gleneagles summit where G8 leaders can exercise, as Mr. Nelson Mandela said, "leadership, vision and political courage."

All these were initiatives to start an extraordinary attempt to eradicate poverty through effective aid, trade and a new form of engagement. This year, there is a three-pronged approach. The aid initiatives will be followed by the Millennium Summit in September, where each government will be measured as to how the millennium goals that they committed to will be met. The final segment of this three-pronged approach will be the round of world trade talks in December aimed at eradicating a trade regime that so disadvantages the third world.

In his speech in London's Trafalgar Square on Saturday, Nelson Mandela made these comments:

Massive poverty and obscene inequality are such terrible scourges of our time — times in which the world boasts breathtaking advances in science, technology, industry and wealth accumulation — that they have to rank alongside slavery and apartheid as social evils.

The Global Campaign for Action Against Poverty can take its place as a public movement alongside the movement to abolish slavery and the international solidarity against apartheid.

Mr. Mandela also said:

Like slavery and apartheid, poverty is not natural. It is man-made and it can be overcome and eradicated by the actions of human beings.

And overcoming poverty is not a gesture of charity. It is an act of justice. It is the protection of a fundamental human right, the right to dignity and a decent life. The Hon. the Speaker: Senator Andreychuk, I am sorry but your three minutes have expired.

ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE

FOURTEENTH PARLIAMENTARY ASSEMBLY

Hon. Jerahmiel S. Grafstein: Honourable senators, yesterday the Parliamentary Assembly of the Organization for Security and Co-operation in Europe completed its fourteenth annual session in Washington, D.C. It lasted over five days and was attended by more than 1,000 parliamentarians and staff. It was probably the largest assembly in its history. The Washington Declaration, a compendium of all resolutions adopted, will be tabled in the Senate. The OSCE Parliamentary Assembly is composed of parliamentarians from 55 member states, and is the largest international organization dedicated to the advancement of democratic rights, human rights, and economic and security cooperation.

The Washington Declaration included a number of issues on which Canadian parliamentarians took the lead: trafficking in human beings; steps for cooperation in the Middle East; combating anti-Semitism; advancing the fight against corruption amongst parliamentarians and in the public service; improving democratic surveillance of election monitoring; codes of conduct for peacekeepers and international representatives; and gender issues.

I was pleased to be re-elected for a third time as a Senior Officer and Treasurer and as Leader of the Liberal, Democratic and Reformer's Political group. I extend my appreciation and congratulations to our colleague, the Honourable Senator Di Nino, for his assiduous performance as head of the Canadian delegation. I intend to have the Senate consider a number of aspects of the Washington Declaration, which each parliamentary delegation was mandated to do under the declaration.

I would like to add a special word of congratulations to Speaker Dennis Hastert, of the House of Representatives, to our Congressional American hosts and to Congressman Alcee Hastings, who was re-elected President of the OSCE Parliamentary Association and who invited us to share an outstanding visit to George Washington's home on Mount Vernon on the Potomac. Our hosts also invited us to participate in the festivities on Capitol Hill for their July 4 celebration, together with over one million Americans. It was a memorable experience for all of us.

TAX BURDEN ON YOUNG PROFESSIONALS

Hon. Wilbert J. Keon: Honourable senators, there is an article in today's *Ottawa Citizen* by Sarah Schmidt that says one third of our graduating Ph.D. students this year will move to another country. This disturbing fact has been with us for some time and,

having had personal experience in this area, I can tell honourable senators why they are leaving Canada. They move to the United States because their disposable income will be about double what it would be in Canada. They will pay about one half the tax in America that they would pay in Canada.

I believe the government must address this situation and ease the tax burden on these young people who are on the way up. It is completely unfair to continue to tax them at the current levels.

ROUTINE PROCEEDINGS

LEGAL AND CONSTITUTIONAL AFFAIRS NATIONAL FINANCE

COMMITTEES AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hono Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate, I move:

That the Standing Senate Committees on Legal and Constitutional Affairs, and National Finance, be empowered, in accordance with rule 95(3), to sit during the period of July 11 until July 18, 2005 inclusive, even though the Senate may then be adjourned for a period exceeding one week; and

That these committees be authorized to meet at any time during this period.

• (1340)

The Hon. the Speaker: Does Senator Rompkey wish leave to do that now?

Hon. Terry Stratton (Deputy Leader of the Opposition): Perhaps my honourable friend could review those dates again.

Senator Rompkey: My motion yesterday referred to the period of July 8 to July 15. This motion now says from July 11 to July 18, to make it clear that the committees are sitting next week.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

THE SENATE

MOTION TO EXTEND SITTING ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate, I move:

That, notwithstanding the Order of the Senate of November 2, 2004, when the Senate sits today, Wednesday, July 6, 2005, it continue its proceedings

beyond 4 p.m. and follow the normal adjournment procedure according to rule 6(1).

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Hon. Marcel Prud'homme: May I make a comment?

The Hon. the Speaker: It is a debatable motion.

Senator Prud'homme: That means the committees that may have to sit may not sit.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

MEMBERSHIP OF STANDING SENATE COMMITTEE ON CONFLICT OF INTEREST FOR SENATORS

Hon. Jack Austin (Leader of the Government): Honourable senators, I move, seconded by the Honourable Senator Kinsella:

That pursuant to Rule 85(2.1) of the Rules of the Senate the membership of the Standing Senate Committee on Conflict of Interest for Senators are as follows:

The Honourable Senators: Andreychuk, Angus, Carstairs, P.C., Joyal, P.C. and Robichaud, P.C.

The Hon. the Speaker: Honourable senators, because this motion is deemed adopted upon being put in the manner that it has been put, and the rule that provides for it is not in our current rules as distributed, I will read rule 85(2.1), which states:

The Leader of the Government shall present a motion, seconded by the Leader of the Opposition, to the Senate on the membership of the Committee on Conflict of Interest for Senators at the beginning of each session and this motion will be deemed adopted without debate or vote when moved and a similar motion will be moved for any substitution in the membership of the Committee.

[Translation]

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Lise Bacon: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

That, pursuant to Rule 95(3)(a), the Standing Senate Committee on Legal and Constitutional Affairs be authorized to meet Thursday, July 7, 2005, even though the Senate may then be adjourned for a period exceeding one week, in order to consider Bill C-2.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

[English]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Jane Cordy: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

That pursuant to Rule 95(3)(a) the Standing Senate Committee on Social Affairs, Science and Technology be authorized to meet Thursday, July 7, 2005, even though the Senate may then be adjourned for a period exceeding one week, for the purpose of discussing Bill C-22 and Bill C-23.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

• (1350)

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Joan Fraser: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

That, pursuant to rule 95(3)(a), the Standing Senate Committee on Transport and Communications be authorized to meet on Monday, September 26, 2005, even though the Senate may then be adjourned for a period exceeding one week.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

[Translation]

OFFICIAL LANGUAGES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY EFFECT OF RELOCATING FEDERAL DEPARTMENTS

Hon. Claudette Tardif: Honourable senators, I give notice that at the next sitting I will move:

That the Standing Senate Committee on Official Languages study and report its recommendations to the Senate on the following no later than June 15, 2006:

- 1) The relocation of federal department head offices from bilingual to unilingual regions and its effect on the employees' ability to work in the official language of their choice;
- 2) The measures that can be taken to prevent such relocations from adversely affecting the application of Part V of the Official Languages Act in these offices, and the relocated employees' ability to work in the official language of their choice.

[English]

INFORMATION COMMISSIONER

NOTICE OF MOTION IN SUPPORT OF HOUSE OF COMMONS MOTION TO EXTEND TERM BY ONE YEAR

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Senate of Canada join with the House of Commons in recommending that the term of John Reid, the Information Commissioner of Canada, be extended by an additional year effective July 1, 2005.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hono Bill Rompkey (Deputy Leader of the Government): Honourable senators, I would first call Bill C-48, followed by Bill C-38.

BILL TO AUTHORIZE MINISTER OF FINANCE TO MAKE CERTAIN PAYMENTS

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Eggleton, P.C., seconded by the Honourable Senator Baker, P.C., for the second reading of Bill C-48, to authorize the Minister of Finance to make certain payments.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I rise to speak on Bill C-48, the Liberal-NDP budget bill. With regard to the general thrust of this bill, it must be said that Bill C-48 is heavy on the public purse but very light on detail. It commits hundreds of millions of dollars in broad areas without any concrete plans for how the money will be spent.

Bill C-48 authorizes cabinet to design and implement programs under the vague policy framework of the bill and to make payments in any manner that it sees fit. Somehow, honourable senators, the idea of accountability has gone out the door in this bargain between Paul Martin and Jack Layton.

As The Economist pointed out in a recent article on Canada's public finances entitled "From deficit slayer to drunken spender?", Paul Martin "appears to have thrown fiscal restraint to the wind." The article also hit the nail on the head when it talked about the fact that there is a concern that this government is "giving away not money already in the kitty but future revenues."

Sadly, this trend in the government's approach is confirmed in the Liberal-NDP budget before us. Although the government has reserved the right to use the first \$2 billion in 2005-06 and 2006-07 from the federal surplus, presumably for federal debt reduction, any surplus that exceeds \$2 billion could be used to fund programs related to this bill. As a result, the government would need to post \$8.5 billion in surplus over the next two fiscal years to fully implement this bill.

While one could definitely be critical of the fiscal recklessness that this bill represents, I would like to focus my speech on areas where this bill is lacking — the complete absence of anything for rural Canada, and sectors of the economy important to rural Canada. On issues related to agriculture, there is nothing in this bill. The same is true with relation to Canada's energy and mining industries. Forestry and the problems related to the softwood lumber industry were also ignored. The NDP-Liberal budget deal also does not include anything for the fisheries.

On the matter of child care for rural Canadian families and single parents, this bill is silent. Indeed, when Minister Goodale appeared before the Standing Senate Committee on National Finance to discuss Bill C-43, it was made clear that there is nothing in that bill either for child care for rural families, and Minister Goodale had no solution for dealing with this problem. How can we say that these bills look after child care for Canadians when that entire segment of our society, rural families, is given nothing for child care?

On the issue of tax relief for hard-working rural Canadian workers and businesses, the Liberal-NDP bill is yet again silent. Bill C-48 also runs contrary to the priority of many rural Canadians that governments should be prudent in their handling of public finances by paying as they go and taking into account the need to reduce our national debt and thereby our debt servicing costs.

This lack of sensitivity to some of these fiscal priorities was cited by the Canadian Federation of Independent Business, which stated that the Paul Martin-Jack Layton deal does not complement the priorities of small businesses that favour allocating the federal surplus to debt reduction and tax relief over additional spending.

Small and medium-sized enterprises are the backbone of rural Canada, honourable senators, and the record shows that when the chips were down, when it came time for Paul Martin and Jack Layton to cut up the cash in pursuit of their own self-serving political agenda, they chose to ignore this vital segment of Canada's economy and society.

Honourable senators, during the years that this government has been in power, Canada's rural economy has declined, as has the infrastructure of small communities. To preserve the social fabric of rural Canada, the federal government and other levels of government should be doing everything in their power to encourage diversification and responsible development in small towns and villages by facilitating innovation in the development of small businesses that keep these communities alive. This is essential, for rural Canada plays an intrinsic role in our economic and social fabric. However, this fact and the fact that rural Canada contributes approximately 50 per cent of Canada's GDP and 40 per cent of our exports does not seem to be acknowledged in the priorities of the Liberal-NDP budget bill.

The same is true of the agricultural sector, which represents some 8 per cent of Canada's gross domestic product and employs more than 190,000 farm families. Historically, this sector of the economy has gone through good times and bad times, but the current situation facing many in this sector represents an unprecedented challenge.

For example, under this Liberal government the number of farm workers has been rapidly decreasing, and many of those workers who do remain must work off the farms, effectively working at two jobs just to make ends meet. Now more than ever the federal government should be working to fortify the position of producers as they confront challenges such as the BSE crisis, negative incomes, record low commodity prices, high input costs including fuel, and unpredictable weather such as we have experienced recently. Much to the chagrin of those on this side of the chamber, this need is nowhere more evident than in the calculation of the Liberal-NDP budget.

• (1400)

Energy and mining, which respectively represent roughly 6 per cent and 4 per cent of our GDP, are also important sources of employment in rural Canada. While not all jobs are concentrated in rural Canada, direct employment in the energy sector, excluding service stations and wholesale trade and petroleum products, was 225,000 people in 2002, or 1.5 per cent of total employment in Canada. As well, Canada's mining and mineral processing industries employ over 380,000 people. Approximately 113 Canadian communities, mostly in rural areas, have mining as a major source of economic activity.

Yet again, honourable senators, in the deal cooked up by Jack Layton and Paul Martin, these industries were given short shrift. For instance, nowhere did Jack Layton and Paul Martin give any thought to the heavy burden of profit-incentive taxes that have been a source of complaint by the mining industry. Such taxes include payroll taxes, capital taxes, various permit fees, licence fees and user fees. Some in the mining industry have also stated that Canada's mining tax regime has become less competitive than many foreign jurisdictions, which could lead to curtailed exploration programs, mine closures, deferred expansion plans, job losses and fewer attractive opportunities for mining investment.

The energy and mining industries also face challenges from the uncertainty and poor planning surrounding this government's approach to climate change under its Kyoto Protocol commitments, but the environmental spending in Bill C-48 does nothing to address this uncertainty.

Canada's forestry sector, which contributed 2.8 per cent to Canada's GDP in 2002, helps to create jobs for over 360,000 Canadians. Roughly 350 communities are dependent upon forestry for their economic well-being. Unfortunately, these are 350 communities and 360,000 Canadians that Jack Layton and Paul Martin did not think of when they drew up Bill C-48.

Canada's fisheries sector has also suffered from Liberal mismanagement. Total employment in Canada's commercial fishing industry declined from 58,733 in 1988, to 48,110 in 2000, an average decrease of 1 per cent per year. The industry reduced its contribution from 0.39 per cent of GDP in 1988 to 0.33 per cent in 2000.

When Paul Martin went fishing for votes with Jack Layton's New Democrats, Canadians who make their direct or indirect living from the fisheries were furthest from his mind.

On another issue that stands to improve the lot of rural and urban Canadians in Newfoundland and Nova Scotia, the fact that the Martin government took so long to reach an agreement on the Atlantic accord should also not be forgotten. They then further compounded the problem by holding the money for these accords hostage, first by tying it to a larger budget bill, Bill C-43, and then by refusing a Conservative offer to achieve quick Royal Assent for Bill C-43.

To conclude, honourable senators, the public record must take note of the fact that when the Liberals decided to work with the NDP to do something extra, to do something above and beyond what had previously been planned for rural Canada, it was totally ignored. The industries I have discussed, which represent over 21 per cent of Canada's GDP, were completely forgotten.

It remains a mystery why, when the NDP and Liberals cooked up this deal, they never even attempted to do something extra for rural Canada.

Senator Kinsella: Shame!

Senator Stratton: Maybe it is not so much of a mystery. Maybe that is just the way the Liberals and the NDP conduct their affairs when electoral necessity requires them to do business with one another. Perhaps, honourable senators, this is yet another confirmation of the priorities of these two parties. Priorities are often expressed in a general approach of issuing platitudes for rural Canadian issues and the rural Canadian way of life, but all too often fall short on actions that would reflect a sufficient sensitivity to, and engagement with, this vital component of our country.

Honourable senators, this is highly disappointing and why Bill C-48 should be rejected.

Hon. John Buchanan: Honourable senators, I will not take much time of the Senate this afternoon. Others have spoken, and certainly will speak about the substance of Bill C-48 — or I suppose maybe the lack of substance. After all, most of the substance that is in the bill was put together in one afternoon, or maybe one afternoon and evening, by the New Democratic Party and the leader of a major Canadian union. I will speak, however, about the process that was used in this budget.

Last week, Senator Mitchell spoke about minority governments. Senator Mitchell, like me, has no experience with minority governments. I was fortunate to lead four consecutive majority governments in Nova Scotia.

Some Hon. Senators: Hear, hear!

Senator Buchanan: People such as Senator Cordy and Senator Phalen fought against me, but we won every one of them.

In Senator Mitchell's province, the people of Alberta have been fortunate to have Conservative majority governments forever. I guess Senator Mitchell was not so fortunate, because he was the leader of the Liberal Party of Alberta.

On June 30, 2005, Senator Mitchell said:

Honourable senators, this is a democracy.

Absolutely, Canada is a democracy.

The people of Canada gave this Parliament very clear direction. Their direction was that they wanted this Parliament to have a minority government. They made that direction with the single most powerful statement that the electorate has with which to communicate in a democracy — their vote.

Absolutely correct, their vote.

It is inherently arrogant that after eight, nine or 10 months, the Parliament of Canada would actually begin to tell Canadians that they were wrong.

Honourable senators, if it was inherently arrogant in the year 2005, then it was equally as arrogant in the year 1980. Let us take a look at what happened in 1980, because in 1979-80 there was a minority Progressive Conservative government. Approximately 80 per cent of the people had elected a minority government, and in the early part of 1980 the people said that there should not be an election because the government had been in office only for seven months. It would have been inherently arrogant if anyone tried to kick them out, but what happened one night in the House of Commons? The inherently arrogant group did so; they defeated the Conservative government in the House of Commons. It is interesting, when I look back.

• (1410)

Senator Rompkey: A Nova Scotian called Allan MacEachen.

Senator Buchanan: The deputy leader must be a mind reader. I was just going to mention Allan MacEachen.

Honourable senators, I was on my way from Amherst after a successful Progressive Conservative annual meeting in Amherst and I heard Senator Allan J. MacEachen speaking. He was our former colleague and my dear friend of many years. He was also the Liberal house leader at the time. I asked him why he would want to defeat the Conservative government in the House of Commons and his answer was typical Allan J.: "Well, we had the opportunity to do it."

In my next question, I pointed out that over 80 per cent of the people of Canada, said they did not want an election. The government had only been in power for seven months and I asked him what he had to say about that. His answer was, "Oh, they'll forget about that in two days."

The next question was: "But what if you lose the election, Mr. MacEachen?" He said, "We're not going to lose the election. That's the prize. We're going to win the election."

I repeated, "But what if you lose the election?" He replied, "Well, if there's a remote possibility that we would lose the election, we'd be right back where we are now, in opposition."

Honourable senators can see that if it is inherent arrogance now to attempt to defeat the government, it was inherently arrogant back in the 1980s. Senator Mitchell forgot that little bit of political history, and we should all take a look at history sometimes and at what has been produced in history as far as minority governments are concerned.

I will now come back to minority governments. There is no question that arrangements have been made in the past and will continue to be made in the future, as far as minority governments are concerned, to help prop up the minority government by legislation that will be supported by other parties to keep a minority government in office. That has happened many times in this country. It did not happen recently in Nova Scotia because we had four majority governments, but it did happen in 1970 when Gerry Regan formed a minority government. With the help of the NDP, they were able to stay in government, not by gutting any budgets but by making changes in legislation that were acceptable to the NDP and the opposition. There are many ways this can be done. One way, of course, is by forming a coalition. That certainly was not done here, but that kind of thing happened in Ontario with the New Democratic Party and the Liberal Party of Ontario in 1985, so that can be done.

His Honour will remember Gumper Goss. He was at Mount Allison with me and one of his dearest friends at Mount Allison was Harry Currie. Harry Currie is probably the second greatest symphony director in Canada. Senator Banks is the first, but Harry Currie is the second.

Minority governments can be supported by coalitions. There can be minor changes in budget bills, and there can be minor changes in legislation with other bills to prop up a minority government.

The situation here, though, is unprecedented. What is unprecedented is that the budget was already introduced by the Minister of Finance and he said at the time that it could not be changed. He used the term "cherry-picked." It cannot be cherry-picked. The finance minister opposed most of the items in

Bill C-48, which of course the Minister of Finance had already said he would do, and that he would oppose any changes the NDP had proposed in the House of Commons. The finance minister said the budget could not be cherry-picked. He said it cannot be stripped away, piece by piece. He said the corporate tax relief would create thousands of jobs and must be preserved, therefore he would not change the main thrust of the budget, which is the tax relief in the budget.

What happened then, honourable senators, is unprecedented. Yes, changes can be made, as I have said. However, the budget of the Minister of Finance in Canada was gutted in a hotel room, with the leader of the New Democratic Party and the leader of a national union in Canada, without the presence of the Minister of Finance. In other words, the Minister of Finance was not there for a budget that he said could not be changed, could not be cherry-picked, and could not be stripped away. They did it in a hotel room. Therefore, honourable senators, I am concerned about the process that was followed here, in what is supposed to be a parliamentary democracy.

We have heard that term "democratic deficit." Instead of correcting the democratic deficit, this \$4.6 billion Bill C-48, put together in a hotel room without cabinet input, without input from the Minister of Finance, extended the parliamentary democratic deficit dangerously. The process of budget-making has been dangerously fought and the Minister of Finance, the Chief Financial Officer of Canada, has been undercut by the leader of the New Democratic Party, representing 6 per cent of the members of Parliament and less than 15 per cent of the voters in the last election.

Therefore, honourable senators, that is what concerns me about this bill. The process followed here is supposed to be a parliamentary democratic process. Budgets are prepared after months of cabinet deliberation, directed by the Prime Minister or the premier and the cabinet, and the Prime Minister or premier and the Minister of Finance. These are the people who direct the budget-making process.

Here we have a two-page, \$4.6 billion budget that was not prepared with cabinet input and not prepared with input from the Minister of Finance but prepared in one afternoon in a hotel room without the input of the Chief Financial Officer of Canada in attendance. This is not the process for preparing a responsible budget and I hope it never again happens in this country.

Some Hon. Senators: Hear, hear!

Senator Robichaud: Question!

Hon. Lillian Eva Dyck: Honourable senators, I counted the number of times that the words "hotel room" were said in the previous speech and it four times. As you all know, I am a scientist. I listened to the debates, and maybe I have a slightly different way of thinking but, to my mind, the place where the discussion takes place is not that relevant. In fact, it could be perceived as being used as a way of discrediting the discussion that ensued.

• (1420)

There are a variety of rooms in a hotel. The insinuation is, perhaps, that the hotel room is a bedroom, which sexualizes it, and I am sure that the honourable senator had no intention of doing that. However, there are many rooms in a hotel.

Senator Tkachuk: Maybe he did.

Senator Dyck: There are some very beautiful conference rooms, some very lovely spots. There are restaurants. There are private meeting rooms. Perhaps that is where the discussion took place.

The idea of a hotel room is an irrelevant point to constantly raise, although it seems to be one that delights people because it attempts to badmouth and discredit. It seems to me that the place where the discussion occurred should not be argued as being relevant to the discussion.

The Hon. the Speaker: I see no senator rising to speak, so I will adjourn the debate. Are senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: I will put the question. It was moved by the Honourable Senator Eggleton, seconded by the Honourable Second Baker, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

The Hon. the Speaker: On division?

Senator Stratton: On division.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Eggleton, bill referred to the Standing Senate Committee on National Finance.

CIVIL MARRIAGE BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Carstairs, P.C., for the second reading of Bill C-38, respecting certain aspects of legal capacity for marriage for civil purposes.

Hon. Sharon Carstairs: Honourable senators, it is with a great deal of privilege that I rise today to speak to this very important bill. It was my original intent to dedicate this speech d to some very special people in this country, but I declined to do that because I think they know in their hearts that I am speaking for them. They are those who live in this great country who ask that they be treated equally with all others who live in our very special country.

Honourable senators, eight federal courts at the provincial level and one territorial court have made the judgment that the present definition of marriage as the union of two persons of different genders is not constitutional. It is quite clear in the reading of the judgments that the concern does not relate to the part of the definition with respect to the union of two persons. The problem is with respect to the phrase "different genders." The difficulty, then, is that the courts have identified that discrimination against persons of the same gender is contrary to the Charter of Rights and Freedoms and is, therefore, unconstitutional.

If the federal government were to insist on the present definition of marriage, it would have to do so, despite arguments to the contrary, by the use of the notwithstanding clause. The government would be required to state, in essence, that notwithstanding the Charter of Rights and Freedoms, notwithstanding that the law is unconstitutional, the government insists on the law. What an incredible concept that image presents! A government admits that it is discriminating against some of its own citizens, but it will do it anyway. I am deeply grateful that our government has chosen not to go this route. I would have preferred that the government had acted even sooner than it has done. However, it has now happened. We have a piece of legislation before us that recognizes the equality of all Canadians.

That is why, honourable senators, I have to note that the speech by Senator Kinsella, quite frankly, left me dreadfully surprised, particularly as Senator Kinsella has a very well-deserved reputation in the field of human rights. Yet, from his speech, which I have read four or five times, the honourable senator suggests nothing less than creating a category of persons who are separate but equal. The honourable senator said that the traditional definition of marriage could subsequently be followed by a clause indicating that, notwithstanding the traditional definition of marriage, marriage for civil purposes is the union of any two persons.

Honourable senators, this separate but equal philosophy is not new. The senator is hardly innovating with what he suggested might be a proposed amendment. In fact, the separate but equal doctrine, which flows from the century-old U.S. Supreme Court ruling in Plessy v. Ferguson of 1896, was the very basis for racial discrimination and segregation in the United States. The separate but equal doctrine in that case could be summarized in the words of Mr. Justice Brown, writing for the majority, in which he said laws permitting — and even requiring — their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other.

This doctrine was finally overturned in the United States in *Brown v. Board of Education* in 1954, when Chief Justice Warren, writing for the majority of the Supreme Court of the United States, wrote:

We conclude that in the field of public education, the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

In Canada, the courts have also deplored the use of the separate but equal doctrine, and they have done so in cases respecting persons in same-sex relationships. On August 14, 1998, the Federal Court of Canada, Trial Division, held in *Canada (Attorney General) v. Moore and Akerstrom,* that a separate definition of same-sex marriage is discriminatory. The case involved employment benefits. The presiding judge wrote, in part, as follows:

In my view, the scheme proposed by the employer establishes a regime of "separate but equal," one that distinguishes between relationships on the basis of the sexual orientation of the participants. Thus, this scheme remains discriminatory.

Honourable senators, separate but equal is not acceptable. Therefore, let us extend, for example, the kind of proposal that Senator Kinsella made yesterday. What if we took the issue of prohibition on the grounds of gender? How would we adapt Senator Kinsella's approach to the question of the equality of men and women? Let me attempt to draft an amendment using the same approach that Senator Kinsella proposes for marriage among persons of the same sex. Maybe it would read something like this: Notwithstanding the principles of natural law which regard that men are superior to women and that consequently only men have traditionally qualified to be considered as legal persons, for the purpose of civil law, women shall be considered to be equal to men.

Was that not enlightening? Let us try the same on the prohibited grounds of race, national or ethic origin. How would that appear in an amendment to the Canadian Human Rights Act? Maybe we could say the following: Notwithstanding the superiority of the white races as ordained by God and illustrated by his divine wisdom in the separation of the races into different continents, non-white persons for the purposes of civil law shall be considered equal to white persons.

I hope not, honourable senators.

Let us try one other example with respect to mental or physical ability. Perhaps we could write it this way: Notwithstanding the self-evident inferiority of persons with mental or physical disability and their incapacity to function as fully normal persons, they are deemed to be equal to normal healthy persons.

Honourable senators, with the greatest of respect to Senator Kinsella, his position is simply untenable. These examples, I think, illustrate the absurdity of the logic on which his proposed amendment rests.

• (1430)

Honourable senators, we have persons in Canada who are asking to be treated equally. I look at this whole issue from the concept of what is marriage? What is marriage between two persons? Is it based, as we were told the other day, on

procreation? There are a number of persons, some even in this chamber, who have married and have found themselves unable to have children. Is there marriage any less valid because they cannot procreate? I think not.

It cannot be procreation upon which marriage is based. In my experience of 39 years of marriage, I say, what is marriage based on? For me, marriage is based on friendship and companionship. It is based on making the very most of our talents and the encouragement of the other partner in that endeavour. It is a relationship of two soulmates who understand the heart of the other person.

Honourable senators, how can I, someone who has had the glorious pleasure of 39 years of marriage, deny it to any other person? How can I do that? How can I say that two persons of the same gender have less opportunity than I have had?

Honourable senators, I often wondered what I would do if one of my daughters had come to me and said, "Mom, I have chosen a partner, and that partner is of the same gender." I hope that what I would have said to her under those circumstances is, "I want you to have the same joy in your life that I have had with your father, so if that is your choice, that person will be accepted in my heart and will be loved."

[Translation]

Hon. Gerald J. Comeau: Honourable senators, in the past few days we have been hearing from the senators on the government side that debate on Bill C-38 in this place was not necessary because everything had been said in the other place. Thus, it was unnecessary for an informed debate to be held here, because it would be a waste of time.

According to the Liberals, the other place has studied the bill and any debate in the Senate would be nothing but duplication. If that reasoning is valid, we should probably be questioning the usefulness of this place, since the other one considers bills in detail and the work is finished there. Why, then, are we here?

I realize that the new senators are sometimes frustrated by the lengthy debates, and would like to pass bills as soon as they arrive here. This is simplistic reasoning. Certainly it would be easier to do things quickly, so why did they choose to sit here rather than somewhere else?

I can understand the new senators' impatience. They have not yet understood the reason for proceeding slowly with the legislative process. They do not understand the value of debates and of public consultation. We must think carefully about the bills before we pass them.

I have less sympathy, however, for the more experienced Liberal senators who are rejecting the value of our debates. These senators know very well that the work done in the other place must never replace vigorous debate here.

Those honourable senators ought to be setting an example for their newer colleagues, showing them that it is their constitutional responsibility to examine bills in detail, regardless of what was done in the other place. Veteran senators should be making their new colleagues aware of the distinction between the government and the Parliament. Senators are the ones who direct the debates. That is our parliamentary responsibility. I have the impression that some new senators have not grasped what their new positions are all about.

In my opinion, we could have taken this opportunity to consider people in non-conjugal relationships so that they could benefit from Bill C-38.

The government has chosen to completely ignore the fact that two people, such as a mother and her son or a father and his son, may live together without necessarily sleeping in the same bed.

Senator Carstairs said earlier that marriage, or an equivalent union, may include friendship, companionship or a relationship between two soulmates.

This bill should recognize such relationships. It completely avoids the issue of family. There are numerous such arrangements throughout Canada. People living in such arrangements are not worthy of consideration in this bill because their relationship is not a conjugal one.

Yet these individuals live together as a family in stable, calm and loving homes. Their love is as important as the love between conjugal partners.

Senator Carstairs could have told us that numerous children make great sacrifices in order to care for a mother, father, brother or sister. We have chosen to ignore their sacrifices in this bill.

One major advantage to a system of civil unions would be that such arrangements could be an option for those in non-conjugal relationships. The Liberals should understand, of course, that the state has no place in the bedrooms of Canadians.

The government insists that homosexuals have a fundamental right to use the word "marriage." I have some difficulty accepting that logic. Suppose we had legislation authorizing civil unions with all the specific rights of traditional marriage, with the exception of the rights associated with the word "marriage." Using the government's logic, homosexuals would have a fundamental and legal right under the Charter of Rights and Freedoms to use the word "marriage."

Those who insisted that the status of civil union was diminished because they were not entitled to use the word "marriage" would be forced to appeal their right to use the word "marriage" to the Supreme Court. All other rights would remain unchanged. The Charter of Rights and Freedoms protects rights, not the meaning of words.

I am not sure the Supreme Court would want to get involved in a legal proceeding over the right to use the word "marriage" under the Charter of Rights and Freedoms.

I have one last observation. The government set up the debate to give the impression that those who oppose the bill are homophobic, stupid and prejudiced. Just look at the buttons saying, "It's the Charter, stupid", that were seen when the other place was discussing this bill, suggesting that anyone opposed to this bill is stupid.

As a parliamentarian, I think this type of debate is insulting to Canadians and to anyone needing to resort to such tactics to present their arguments.

• (1440)

We deserve better from our government. I believe we are entitled to hold differing opinions. I may be wrong; if so, I can accept that. However, I find it truly insulting to treat those who disagree with the arguments from the other side of this chamber as stupid, ignorant homophobes.

Hon. Marcel Prud'homme: Honourable senators, I will not take part in the debate at this stage, but there is a question that has been on my mind for some time.

I am not afraid to speak my mind and to tell it like it is. The 1993 Liberal Party Red Book caught my attention. There is passage that states we will address this concern of certain individuals, namely widows, widowers and single persons.

I was there when Treasury Board President Lucienne Robillard appeared before a Senate committee. I asked her whether she would take care of this because a Liberal senator had been kind enough to pass me the note from the Red Book. She said, "In fact, Ms. McLellan, Minister of Justice, has a committee to take care of this."

I am a Liberal. I am in favour of equity in Canada. Everyone here knows about my personal situation. My sister is 78 and I am 70 and everyone in my neighbourhood knows that she and I have always lived together. I also lived with one of my other sisters.

There are many people in my situation. Many a senator has taken care of their dying mother without having any hospital privileges. My sister is sick at this time and if I were to leave her, my pension would go with me. This is a very personal situation and it is a conflict of interest.

[English]

It addresses the concerns of thousands of people across Canada who are affected by this. I was rising to ask Senator Carstairs, a lady whom I admire very much for her devotion, if she would join with me in taking the next step in extending equality.

This would be the last group of people who would be treated equally. A large number of siblings live with each other and take care of each other. Many women will take care of their elderly mothers because there is always one in the family who will do it. The other family members say, "We will give that duty to Marthe or Theresa. She will look after our mother."

For the moment, I am not talking about this bill; I am talking about the future. I see some honourable senators smiling. They should realize that I conducted my survey. Many people in the Senate are affected. There are many more widows than widowers who have someone to take care of them.

I am not talking about someone who says, "I live in Australia and take care of my mother in Canada." That is not what I have in mind. This phenomenon is well known in societies such as in France, for example, where there are two people who care for each other. These individuals should have the same rights that we are extending to others.

Does Senator Comeau think that this would be a good step to take in the future? Senator Kinsella understands me very clearly on this issue. Perhaps the time has come to have a committee look into this suggestion. I hope that Senators Austin and Rompkey will join with me in this endeavour. We need leadership to finish the job of creating total equality for all people.

Senator Comeau: Honourable senators, I appreciate Senator Prud'homme's question and am aware of the fact that he has been taking care of his sister for quite some time. It is very much appreciated because taking care of his sister is one of his contributions to society, but society is not thanking the honourable senator in return.

We could have recognized in this bill the contribution that the honourable senator, and others like him, make to society as a whole. I use the Honourable Senator Prud'homme as an example. I know he represents not only those in this chamber who find themselves in the same position, but thousands of Canadians right across the country who we have failed to take into consideration in this bill.

Had we approached this bill with a little more reflection, we could have arrived at a civil union that would have helped the thousands of people who are in the position described by the honourable senator.

I mentioned Senator Carstairs' undeniable good work in palliative care and her deep commitment to it. Imagine what such a measure could have done for the work she is doing to advance the cause of palliative care.

I could not help but note the definition given to what is a loving couple. A loving couple can be a mother and her son, or a mother and her daughter, without resorting to the question of whether or not they sleep in the same bedroom. That is an entirely different matter. We could have done it under the auspices of a nonconjugal type of bill. We had the opportunity to do it this time and we could have done it.

Now we have postponed or missed a great opportunity. Senator Prud'homme's question has given me a chance this afternoon to bring this issue forward. I agree entirely with the honourable senator that it is time to look at this issue. We missed the opportunity with this bill. Let us do it.

Hon. John G. Bryden: Honourable senators, we are launched into a debate that is moot because the issue of whether persons of the same sex have a right to marry has already been decided by the courts in the affirmative. Unless someone has the temerity to invoke the notwithstanding clause, the issue is irrevocably settled.

As someone who appreciates the successful outcome of long and difficult campaigns, I congratulate the members of the gay rights movement who, over a relatively short period of time, have brought gays' right to marry not only out of the closet but through the highest courts in the land, the House of Commons, and soon this place, to Royal Assent. That is not a bad performance, not bad at all. Congratulations!

It is indeed a great leap for individual rights under the 1982 Charter of Rights and Freedoms. Why do I sense, then, among many of my friends, neighbours and acquaintances across the country an unease, almost a foreboding? Is this just normal reluctance to accept fundamental change to an institution that has been part of the fabric of western civilizations for as long as it has existed?

• (1450)

Why have these ordinary Canadians not spoken out about their feelings? Perhaps, as some have mentioned, they do not want to appear to be against expanded rights for individuals. Others appear to be concerned that to question same-sex marriage at all, for whatever reason, is to be labelled homophobic, intolerant and discriminatory.

It has been rightly pointed out during this debate that one of the roles of a senator is to represent and defend minority interests. Indeed, there would have been no federation in 1867 if the big provinces of Upper Canada and Lower Canada had not agreed to an upper chamber that would give my region, the Atlantic, the same number of votes in that chamber as each of the bigger regions. Even back then it was recognized that my province and my region would in all probability continue to be a minority in the elected House of Commons, and New Brunswick and Nova Scotia demanded an appointed Senate with equal status to counter that imbalance. Without the agreement to that demand, there would have been no Canada — at least, not that year.

Honourable senators, with a great deal of humility, I would like to attempt to articulate some of the concerns and issues that appear to trouble some of the folk in the minority region that I and other Atlantic senators represent. First, I believe that we need to accept the fact that one can accept homosexuality and support equal treatment for gays while having reservations about changing the legal definition of marriage to include same-sex couples. Indeed, this would seem to reflect a significant proportion of Canadians' views. A survey dated September 5, 2003, found that 52 per cent of Canadians believe there is nothing wrong with homosexuality. Two in three Canadians said that gay or lesbian couples who enter into committed relationships should be treated the same as heterosexual couples who do so.

The problematic issue for many is the proposed use of the word "marriage." In that context, I should like to consider the broader implications of the issue. Is marriage just a word, or is it something more? What does it mean to be an institution, part of the fabric of Western society? Do we fully understand the role that traditional marriage has played in the evolution of our society? Why is it that no society has done this before this contemporary period? What is essential to the concept of marriage and what is not? At what point will we have changed it so that it is no longer recognizable? More important, at what point will it have been changed so that it no longer can serve the function it serves, consciously or not, in our society?

In a recent article, Sam Shulman noted that American public opinion seems to be shifting very quickly "not actually in favour of gay marriage but toward a position of slightly revolted tolerance of the idea." He observed that those passionately on the

side of traditional marriage appear to be at a loss for words to justify their passion, while for the rest, "many seem to wish gay marriage had never been proposed in the first place, but also have resigned themselves to whatever happens."

A review of the literature about the history of marriage indicates that marriage has — with arguably one exception — always been between a man and a woman. Some people are concerned about the future consequences of changing the law to open marriage to same-sex couples. Would it be possible, for example, to resist attempts to allow polygamy? Some quite mainstream religions, for example the Church of the Latter-Day Saints, advocate and accept polygamy. Under the Charter of Rights and Freedoms, would it be a violation of the freedom of religion to refuse to accept polygamous marriages? Notably, nothing in the *Halpern* decision would seem to preclude a further change to the definition of marriage to omit the limitation of two people.

What about incest? Interestingly, according to Frances and Joseph Gies' book Marriage and the Family in the Middle Ages, "the incest taboo has so far resisted attempts by psychologists, anthropologists and sociologists to develop a really convincing and generally accepted explanation" for its existence. If so, is it not arguably a matter of time before the incest taboos fall as well?

Perhaps that is as it should be, but these potential consequences should be examined and considered. I want to make it perfectly clear that the issue here is not whether homosexuality leads to incest or polygamy. There is absolutely nothing to suggest that it does, or would. The issue is whether, under the law, especially in view of the Charter and the court decisions thus far, there would then be pressure to change and to accept polygamous and incestuous marriage as well.

Polyamory, loving more than one person, is now a way of life for many people. Indeed, there are websites devoted to polyamory. Unlike same-sex marriage, if one canvasses history for precedents, there are long traditions of multiple marriages. Indeed there are prominent examples in the Bible, notably that of Abraham with wives Sara and Hagar, and Jacob with wives Leah, Rachel and the maid servants of each, to name just two.

It would appear that there are many forms of relationships in which people are engaged that they consider like marriage, or would like to consider marriage. Would opening the door to same-sex marriage be the thin edge of the wedge? Is this desirable? If it is not, why not? Just as proponents of traditional marriage are having difficulty articulating the reasons for their opposition to same-sex marriage, will opponents to these other forms of relationships have similar difficulties?

Honourable senators, this review of some of the literature, and I have only touched the surface, in trying to argue against gay marriage demonstrates the difficulty of the task. They all believe there is a problem but cannot articulate what it is or why it exists. Us ordinary folk should take some comfort in the fact that experts on marriage and family, legal scholars and others, appear to have no definitive answers to our concerns, either.

Perhaps that relates to the fact that marriage between a man and a woman has existed in this form since the beginning of our written history. One of the most difficult tasks is to see outside one's world and to understand it fully and clearly. This definition of marriage has been true for each one of us all of our lives, and is inculcated into our consciousness from the womb. Alternate forms of relationships, including committed lifelong relationships, have developed but they have, for the most part, developed in opposition to marriage as an attempt to create something unique that is not marriage; they have never attempted to transform marriage itself until the current era.

The challenge presented today is overwhelming in its scope and in its import. We are being asked to transform a fundamental part of our human world. Do we know enough of the potential consequences for our society? Honourable senators, I do not know the answers to these questions, but I believe it is important to have asked them. Much of this discussion is based on an analysis of the past traditions of Western civilization, and how traditional marriage brought us to where we are.

• (1500)

It is now time for me, at least, to consider the implications of this bill into the future. It is surely possible that one reason that so many people who believe there is a problem with changing the definition of "marriage" to include same-sex couples cannot say what that problem is or why it exists is that there is no evidence that there is a real problem. It may be that we will only determine that with the passage of time.

Honourable senators, I am a father, a grandfather and I am 68 years old. This bill will affect my children and their children more than it will affect me. Certainly, I have no evidence that would lead me to attempt to deny rights to present and future generations of Canadians. I have no crystal ball, and I do not know what lies ahead. We have a saying where I come from: "If you cannot see where you are going, go as far as you can see and, when you get there, you'll be able to see a bit farther." Honourable senators, I can see far enough today to choose to support this bill.

Hon. David Tkachuk: Honourable senators, I rise today to try to articulate why I am opposed to Bill C-38. There has been much written and much debated on the subject, and none of that has changed my mind. I am not sure whether anything I say, or others will say, will change the minds of those who support the concept. However, much still needs to be said and examined. This is at the heart of the question and it is the heart of my reluctance to deal with this bill in a hurried way.

Honourable senators, we are fooling with something, and we cannot predict the consequences of our actions for our children and for our country's future. Change is not always good, and change to the institutions that have made us such a civilized and decent society should be made with great reluctance. I want for my children, and for their children, at least the same opportunities that I have had. People from all over the world want to come here, not to live as they have lived but to live the way we live. They come here to be given opportunity for their children and to practice their faith in freedom.

One of the very foundations of our social and cultural success has been the family unit and the marriage bond between men and women. As a society, we have used this institution that existed well before we, as a country, were here. We have adopted it to raise the next generation. We have given that institution state protection and benefits, not so that people could simply live together, because they chose to do that in the 19th century when marriage was not such a great institution, but so that they could raise the next generation. It is a civilized and decent way in which to reproduce ourselves.

We do not talk about that very much but, in reality, that is what we are talking about. Marriage is not by itself Christian, but Christianity and other religions have given it sanctification and the honoured place that it rightly deserves. Having children is important to our survival, which one would deem self-evident, yet single people are heard to say that paying school taxes is discriminatory.

Much of the argument against the Conservative position has been made on the premise that we are against homosexual rights, and that we do not understand the Charter. Let me point out that the court did not say that traditional marriage was unconstitutional. Rather, it said that the current bill was not unconstitutional. That is a big difference.

Honourable senators, as we contemplate a bill that will overthrow the traditional definition of "marriage," we would do well to remember that the Senate is considered by many to be an out-of-step-with-the-times institution. Perhaps those who would dispose of the Senate should be asked whether they truly understand what the Senate does, what role it plays in our system of government and why the Senate was created in the first place.

I would raise the same question about Bill C-38. Have the proponents of the bill thought through the implications of what it will mean to do away with the definition of "marriage" as we know it? Have they thought about what Bill C-38 will mean for the concept of parents and family? This bill takes a historic concept of natural parent and replaces it with the notion of legal parent.

People such as Professor Cere of McGill University have pondered this issue and asked why this is so when all the court cases arguing for the redefinition of "marriage" have insisted that marriage was not about parenthood. The crux of the argument was that marriage is not about parenthood, so why are all these changes in the bill on parenting? What is the need to change the definition of "marriage" with this bill?

Bill C-38 is not about marriage for gays and equal rights but it is about overturning the very notion of family. The Minister of Justice, departmental officials and the government have not explained adequately why the amendments defining family matters such as children are in Bill C-38. Clauses 10 to 12 of Bill C-38 propose to replace "natural parent" with "legal parent" in the Income Tax Act. Given that Canada has had provisions for adoption for many years without needing to make these changes, this signals a more profound change. The definition of "parent"

would no longer be "biological mother or father" but "either of two persons who are married to one another." This could have implications far beyond the Income Tax Act, including the way parenting is understood in schools.

We know from years of history and scientific data that, where possible, children should be raised by their biological parents. A recent academic study shows how this change will affect family law provisions meant to protect children. The website containing that information is available through me.

This bill may put Canada in breach of international obligations under the UN Convention on the Rights of the Child. Article 3 of that convention requires that the best interests of the child be the primary consideration on all decisions regarding the child. Article 7 guarantees that the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, so far as possible, the right to know and be cared for by his or her parents. It has other implications that I will speak to in a moment. Adopted children in Canada have the right to locate their biological parents, and Bill C-38 will take away that right.

Honourable senators, what is the purpose of marriage and what is the role of the family unit? I would argue that marriage is a man-made institution designed to take account of certain biological and evolutionary principles. Senator Bryden talked about why people have a difficult time articulating their opposition to this bill. I do not have a difficult time articulating my opposition to this bill because I know the intent of the bill—to redefine how we govern ourselves and raise our children in society.

• (1510)

I think we all want a chance to talk about the fact — and we often do not talk about it — that this is how we procreate in a civilized way. We do not do it in laboratories. We do not do it like in science fiction movies where we raise children in institutions. We tried that in Romania. We try and do it in family units, and family units are composed of men and women. That is the ultimate purpose of marriage and that is why there is marriage. Everyone is obligated to fulfil their responsibilities not only to each other, but to their families and their children.

You may ask why does Bill C-38 change that? That is not the point. Bill C-38 misses the point of marriage. Same-sex couples do not bring to the situation varying biological needs that need to be fulfilled in marriage. They may adopt children. They do not have children unless through extraordinary means. That means that all of the needs of same-sex couples can be met through civil unions without doing away with the traditional notion of marriage.

Our society does not condemn people deciding to live together. Our society does not say you have to be married to have children. We do not do that. It is a voluntary act. People can live together and build a stable home relationship, and our society says that is okay. Many people do, and many people have healthy families and fulfil all of society's obligations through their relationship of living together.

However, for greater certainty, the state says that after one year, you are a family unit. Therefore, they cannot escape the obligations of parenthood that recognizes them as having a contractual obligation with the same rights and privileges of a married couple. Certain tax and pension benefits kick in as a result of that one-year relationship. Again, these benefits and obligations do not come about because people are married. They come about because these people are expected to have children. There are tax benefits to the mom or to the dad, depending on who is staying home and who is working. There are pension benefits because many times one of the spouses is staying home and, therefore, the pension sharing takes place. It does not take place because they have conjugal relationships. It takes place because they have children and are expected to have children.

Proponents of this bill have said that with marriage, there is divorce. That is true; there are imperfections in every institution in a civilized society. There are imperfections in this place, although we do not want to admit them. There are imperfections in the other place. There are imperfections in the court. We do not say that we should destroy these institutions because of their imperfections. We do not say that we would change their very definition because there are imperfections, but we seem to be saying that about marriage.

I spoke earlier about the articles in the bill that change the definition of "parents." To me, this means that children who are adopted will not be able to seek out their biological parents; or at least it can be interpreted that way because parenting is described differently in the act and there has been no reason as to why that particular description has taken place.

If we thought long and hard about what we are doing, we could conclude that all the needs of same-sex couples can be met through our party's notion of a civil union. This, by itself, is not discriminatory. It is a common-sense solution that recognizes traditional marriage without detracting from the rights and benefits of people in same-sex relationships. What is the harm in that? Whose rights would such a solution infringe upon? Are we saying that the human rights of people who are different — and there is no denying that homosexuals and heterosexuals are different — have to be met exactly the same way? We cannot legislate away our differences and we are foolish to think that we can.

What we can do is accept the fact that people are different and find ways to accommodate those differences that are mutually acceptable to everyone. Bill C-38 does not do that. It tries to pretend that we are all the same when we are not.

Honourable senators, I look forward to more of this debate in committee. I am opposed to this bill not only in its substance, but I am opposed to this bill from the start.

Senator Prud'homme: Would Senator Tkachuk take a question?

Senator Tkachuk: Sure.

Senator Prud'homme: Does my honourable friend think that it is the duty of the Minister of Justice to appear before the committee in person and not via video conference because he is busy with other occupations? Should it be his duty to attend the committee as the minister responsible to show his respect for Parliament

Senator Tkachuk: After all that has been made of Bill C-38, after all that we have gone through with this bill, including closure, and given how important this bill is for the government in the other place, how important this bill is said to be, such that the Senate is debating it in July and not in September, I cannot imagine that the minister will not be here in person to defend this bill. That is the only way that we get to talk to him. I do not think we will be able to properly talk to him in a video conference. We will not know who is behind him or who is there in the room with him. We will have no idea.

I want the minister in front of senators, debating and answering questions as to why we should pass this bill. He must be in front of us justifying why he wants this bill passed. His priority is to be here in Ottawa and not in France.

The Hon. the Speaker: Senator Tkachuk's time has expired.

Hon. Marilyn Trenholme Counsell: Honourable senators, the privilege of speaking to Bill C-38 today has given me a reason to reflect on the human condition, on human nature and on human desires and hopes. After all, we share our earthly lives as fellow human beings and we share, to a very large extent, our basic needs and ultimate dreams. Yet, no two human beings are exactly alike. Even identical twins are shaped by their environment, perhaps becoming different in subtle or not so subtle ways.

In the debate on Bill C-38, I have listened to eloquent interpretations of the Charter of Rights and Freedoms, and I have wondered what Pierre Elliott Trudeau would say to us today; yet, he speaks to us through the Charter.

Other politicians, scholars, jurists, religious leaders and many of our fellow Canadians have spoken on Bill C-38. Rights — human rights, Canadian rights — as defined by our Charter have been central to much of what has been said and written.

Today, I preface my remarks by a very personal statement and personal belief. It is this. In supporting Bill C-38, I believe it is the right thing to do. All my life, I was taught to ask myself in decisions like this one, is it the right thing to do or is it wrong? My fellow senators, for me, this is the right thing to do. As a Christian, I often ask myself what would Jesus do? In this case, in this time, I believe he would say yes.

After all, we have come a long way from Old Testament days when adulterers were put to death; and we have come a long way in our understanding of human sexuality. We have travelled with our young people as they form relationships and share their lives. They have much to teach us since we have often failed them in our own attempts to make family ties strong and meaningful, in and out of marriage. Our young women and men are frequently more tolerant than my generation. They may even be more honest.

Bill C-38 will take Canada and Canadians into a new era of tolerance. It will help us build a more open society and in the words of our former Prime Minister, a more just society.

• (1520)

As senators and parliamentarians, we have our individual backgrounds and life experiences. Mine is fundamentally that of a physician, and I will speak on this bill today from that perspective.

Bill C-38 speaks to who we are and what we have become, and that begins at conception. I have held many newborn babies in my hands. Each time, I felt a sense of awe, and wondered what life had in store for this child. Certain things were obvious; others were a mystery. The hopes and desires of the parents were embodied in that infant, but what ultimately would be the hopes and desires of that new creation? What would be that child's potential? Would the child be happy; would the child find fulfillment?

Honourable senators, we now know that a child may be born with a learning disability, with mental illness or with a sexual orientation different from its parents and many others in the world around them. It is the old nature-versus-nurture debate. The environment of each child will be a factor, but much that a child is born with remains for life.

In 2005, we can treat learning disabilities and we can treat mental illness, although all too often we cannot take away either a learning disability or a mental illness. Sadly, sexual orientation does not fit into this picture. One's sexuality is as fundamental to whom we are as the colour of our eyes and the shape of our hands.

Walls of silence are breaking down around mental illness, learning disability, sexual orientation and, of course, other things such as family violence. Very slowly — too slowly — stigma is lessening. Yet, pain persists for too many — too often — and, sadly, the pain may be so severe that a life is lost. All the hope, all the potential in that human being is lost.

Doctors deal with the pain of others on a daily basis. Many heterosexuals have pain in and out of marriage. Many homosexuals have pain out of marriage. They hope that marriage will lessen, perhaps even take away, this pain. Theirs is a pain based on closed doors, walls of silence, on not feeling equal and not being accepted. For no reasons of their own making, they believe that their fellow human beings see them as not equal in society, not equal in family life and quite simply, not equal.

Is this right? I believe the answer is no. Marriage represents the affirmation of love, the affirmation of family, the affirmation of a place in society on which much of our community life is built. The World Health Organization talks about family in a broad sense as a group of people caring for each other and supporting each other. Nearly every human being, regardless of sexual orientation, seeks love and family. Yet, marriage is a choice for many, although not all, heterosexuals. In the past, it could not be a choice for any homosexual. They were isolated and barred from one of the most precious institutions in society. They felt unequal and they felt pain.

In response, some would say that marriage is for the procreation of the human race. Yet, many delete this reference in their marriage vows, and in civil marriage it is unlikely to be included. Today, couples often write their own vows, and these marriage vows are as diverse as the women and men who write them. This, too, is the evolution of marriage and society. Our young people believe this is their right.

Canada remains a beacon of rights — not perfectly so, but a country struggling with determination and vision to allow each citizen the dignity he or she deserves to reach his or her potential in life. Diversity is a hallmark of this great nation. Acceptance of individual differences is our mantra.

With this historic bill, we join Belgium, the Netherlands and, very soon, Spain, in opening the doors to marriage to all who love and seek to be loved, that is, all consenting adults, with the inherent limitations within law pertaining to consanguinity.

Honourable senators, whenever one amongst us is accepted, loved and treated as an equal, we all benefit. In 2005, Canada will benefit — will be a greater nation. Again, we will lead by example as a modern, welcoming nation where tolerance, diversity and compassion define who we are and what we will yet become. Bill C-38 is the right thing to do. There will be less pain for a greater number of our fellow human beings. More will grow in love and more of us will contribute more fully to Canadian society within the structure of family and marriage.

Honourable senators, it will remain for us as leaders in Canada to take many of our fellow human beings by the hand to help them understand Bill C-38, to accept that it is right, that each and every member of this great land may have the choice to marry, or not, in a civil ceremony. Canada has a bold history of doing the right thing. Bill C-38 is our most recent effort to be inclusive, tolerant and generous, one to the other. I believe historians will look kindly on Canada and Canadians for embracing heterosexuals and homosexuals as equals in the context of civil marriage and in our communities.

May each couple who enters into this legal union be enriched through the joys and comfort of love and family.

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, I want to speak very briefly to this bill, which is extremely important. First, I will be voting in favour of Bill C-38.

It is extremely important to note that, in terms of public opinion in Canada, the concept of marriage has an unquestionable and eminently respectable religious dimension. In my opinion, the bill fully respects freedom of religion and the religious beliefs of Canadians with regard to the institution of marriage. For those who believe in it — and the vast majority of Canadians do — it protects family or so-called traditional values. Nothing in this bill denigrates in any way either the sociological and cultural concept of marriage or its religious dimension.

In my view, the bill seeks to do only one thing: ensure the equality of all Canadians. It has never been easy for a society to ensure and reinforce the equality of all its citizens. For example, the acquisition of women's rights in our society was — and still is — the subject of a very protracted debate and very long-winded discussions. Each time, various conventions are shaken up but, nevertheless, all Canadians share the ambitions and principles set out in the Charter of Rights and Freedoms.

Speaking more specifically of Quebec, Quebec's Charter of Human Rights and Freedoms, adopted in 1974, was amended at the end of the 1970s to exclude discrimination on the basis of sexual orientation.

In the Civil Code of Quebec, the institution of marriage does not benefit from any specific protections or distinctions setting it apart from all the other institutions in the Civil Code. It is one institution, albeit an important one, among many others. In my opinion, we could not discuss discrimination with regard to any other institution in the Civil Code of Quebec. Guardianship, curatorship, the family, legal capacity and juridical personality are all institutions set out in the Civil Code of Quebec. Could we imagine a society or a legal system that would, in any way, restrict access to an institution fully recognized by the Civil Code?

(1530)

In the early 1960s, for example, women in Quebec did not have the same legal capacity as men. An amendment adopted by the Lesage government abolished that situation.

There were discussions at that time like the ones we are having now, but marriage under the Civil Code of Quebec is an institution like any other. I feel it is totally legitimate, and in keeping with the values not only of Quebec society but also of Canadian society, to move toward the elimination of any and all discrimination regarding access to any of the institutions covered by the Civil Code of Quebec.

In my opinion, this bill addresses civil society only, and shows total respect for the religious and moral convictions of all Canadians. It takes nothing away from anyone; it merely recognizes that a minority of Canadian citizens may have access, particularly in Quebec, to one of the institutions under Quebec civil law, the one known as marriage. This is the only change the bill makes.

I am perfectly comfortable with this, honourable senators. I respect, and clearly understand, the reluctance of all those colleagues who do not agree with this bill for reasons that are absolutely noble and legitimate, and shared by a large segment of Quebec and Canadian opinion. Nevertheless, this is an opportunity for Quebec and Canada to take a step forward, a step toward equality for all citizens of this country.

[English]

Hon. Consiglio Di Nino: Honourable senators, I rise today to add some comments to what I believe is a difficult debate for all of us: an issue that divides not only fellow Canadians, but also those of us in this chamber.

First, I wish to comment on some of the issues that have been raised in this debate. There seems to be an opinion expressed by some of our colleagues that those of us who respect and would like to maintain the traditional definition of marriage are abandoning the concept that two people can love each other, that two people can respect each other and that two people can live as individuals in a relationship of love and acceptance. Such opinions confuse the debate.

Those of us who propose the traditional definition of marriage have not suggested — at least for my part and based on most of the comments I have heard — that two people cannot live in friendship, love, admiration and respect. I urge my colleagues not to be swayed by those arguments, because they are false.

I will now go to my text. At the outset, I wish to distance myself from the extremes on both sides of this debate. This is a difficult debate that should be held in a fair, balanced and reasoned manner. It should not seed hatred or misconceptions, and should not be overly divisive.

I will vote against Bill C-38 and I will attempt to articulate the reasons. First, I am hugely disappointed at the government's handling of this issue. It has been disingenuous in its messaging in a number of ways, particularly in suggesting that members of the House of Commons would be free to vote their conscience while denying a large number of them, certainly more than half the Liberals, being cabinet ministers and parliamentary secretaries, this right on such a controversial and difficult issue.

The government message has also suggested that the issue is about rights. As has been stated repeatedly, the right to join two people of the same sex in legal union exists now; that is a fact.

As well, people of the same sex have been extended full rights and privileges, the same as accorded to all Canadians, and I support this. I believe the government has inflamed the debate unnecessarily. I am concerned about the long-term effect on society.

An argument can be made that extreme positions on both sides have also been inflammatory. However, the Government of Canada represents all Canadians, and should not be disingenuous and misrepresent issues on behalf of one side or the other.

As an aside, I would like to extend my congratulations to Joe Comuzzi for having the courage to vote his conscience, and to do so, giving up his cabinet seat.

Honourable senators, the fast-tracking of this issue by the Martin government is deplorable. This law will have a major impact on all Canadians, not only legally but, more important, socially, culturally, emotionally and financially.

Polls show Canadians are very divided on this matter. Instead of seeking a legislative compromise, the Martin government rammed this legislation through the House, once again disregarding democratic principles and, I may add, another

broken promise. I am also concerned that, as time passes, religious organizations will be attacked and forced to perform marriages of same-sex couples, or at least chastised for not doing so

I am also concerned that a Charter challenge against religious entities will not protect their right to refuse to perform marriage ceremonies of same-sex couples. That remains to be seen.

Honourable senators, this law will directly affect a relatively small number of Canadians, but indirectly it will influence all of society. We could have done it better had the Martin government not been so inflexible.

As for my personal position, I am disturbed that the compromise to describe a civil union between people of the same sex was not even considered. Words describe and define something. Marriage traditionally has meant the union of a man and a woman and the union of two men or the union of two women is not the same as the union of a man and a woman.

Languages go to great lengths to distinguish the clear meaning of a word. As an example, the Inuit have I think 12 or 14 words to describe snow. Words are a critical human tool to define something clearly. This imposition of an unequal definition of marriage is both divisive and wrong.

Honourable senators, each of us is a product of our environment. We are influenced by our teachings and our beliefs, as well as the beliefs of our families and our communities. In my religion, Roman Catholicism, marriage is a sacrament, meaning it is something sacred, something not easily discarded.

My mother, my father, my family and friends have held strong views all their lives about the definition of marriage as the union of one man and one woman. This definition was shared by most members of the other place not so many months ago. We should not forget that.

• (1540)

Before her death, my wife Sheila and I had been married for over 40 years. Her very tolerant views did not include changing the definition of marriage. Therefore I find it impossible to abandon that which I have been taught, and find it difficult to abandon my beliefs. I really feel that I would be unfaithful to the memories of my wife and father if I did not support the traditional definition of marriage. It is for these reasons that I will be voting against Bill C-38.

Hon. Francis William Mahovlich: Would the Honourable Senator Di Nino take a question?

Senator Di Nino: Yes.

Senator Mahovlich: Senator Trenholme Counsell mentioned if Jesus were here today, he would vote for this bill. Does the honourable senator feel that way?

Senator Di Nino: Obviously, I do not have the same relationship with Jesus as does Senator Trenholme Counsell.

Hon. Grant Mitchell: Honourable senators, I would like to take a few more moments of your time to establish my position on this bill and why I hold it. I am very supportive of Bill C-38. I am supportive in a general sense because I believe that it will further the fairness, the understanding and the justice of Canadian society.

As I listened to the arguments today, and for many months, I believe they can be categorized into two:. One is the question of how to reconcile competing values in a society such as ours, and the second — and this relates in large part to how we do the reconciliation, how we prioritize values — will be a discussion of the effects that that public policy decision would have on Canadian society.

First, it is obvious that this is a debate unlike many other debates because it is almost fundamentally based upon competing values. In fact, some of the greatest and most important political debates are debates that are based upon competing values. Not only are they important but they are usually extremely difficult.

On the one hand, those who oppose Bill C-38 do uphold many important, significant, passionately held values. Perhaps the most significant one on their side in this debate is a definition of marriage as somehow being solely between a man and a woman. However, on the other side there are many important values that compete with that value. In this case one of them, and one of the most significant ones for me, is the question of equality for all Canadians under the law.

When looking at both of these sets of values, it seems to me that it is very difficult to come to the conclusion and say that one set of values should somehow trump the other set of values. I believe that, in true, wonderful Canadian style, we have actually come up with a significant balance in this debate through Bill C-38.

On the one hand, the state will not be telling the church and religious groups whom they must marry. On the other hand, the state will not be telling individuals whom they can marry. I believe that is a balance which has been difficult to strike, but it, in fact, is a balance that works. No one will be forced to act or accept in a certain way the other side's vision of marriage but, at the same time, people who have been denied that right will be extended that right, and that, I believe, underlines the fairness, justice and understanding of our society.

There has been a great deal of discussion about the effect of gay marriage on society. I would say that the largest part of that discussion has come from those who are opposed, and they would argue two negative effects, it seems to me. One is the question of religious freedom. Will freedom of religion be abused as part of a slippery slope if Bill C-38 is passed? I would argue on three grounds that religious freedom is not in jeopardy. The first ground is constitutional; it is protected in the Constitution. The second ground is experiential. If it were so that religious freedoms would be threatened because of this bill, then the Catholic Church, long ago, would have been forced to marry divorcees and would have been forced to hire women priests. That simply has not happened. The third ground, and the foundation of my belief that religious freedoms are not in jeopardy, is logical. It seems to

me that a great deal of comfort should come to those who believe in religious freedoms and want them defended. A great deal of comfort should come from the fact that the people who are most likely to defend religious freedoms — one set of freedoms — are the people who are sticking their necks out a long way in order to defend another set of freedoms. I gain great comfort from that.

The second potentially negative impact raised by those who oppose the bill, and it has been raised articulately and often, is that this will somehow have a negative effect on the family. As Senator Austin pointed out the other day, as have others, there really is no proof or no reason empirically to believe that that would be the case. However, let us accept for a minute that that is a potential risk.

What we have not heard debated very much are the potential risks in not passing Bill C-38 and extending marriage rights to this group of people. I believe that there are potential risks if we do not extend that right. There is, of course, the strong rights argument that if anyone's rights are in jeopardy then everyone's rights are in jeopardy. If we are not careful with this group of rights, then every set of rights could, in fact, be vulnerable.

There is also another argument and another effect that is powerful and meaningful to me, and it is not empirical. However, it seems to me that the one place where everyone agrees, the one argument or the one idea that everyone agrees on in this debate is that marriage is a fundamentally important part of our society. Everyone thinks that. If something that is fundamentally important in our society is denied a certain group of people, then that is a very meaningful denial of something that would be fundamentally important to them.

What effect does that have on that group of people? What effect does that have on us as a society that strives to be and prides itself on being inclusive and understanding and just? We may think that we are not having an impact on those people when we talk in the ways that we talk about this issue. There is a group of people who I am sure take that very strongly and it is very meaningful to them. There is simply very little way in which they can feel the same connection, the same inclusion and the same comfort in this society as heterosexuals do because they are defined as different implicitly in this kind of debate.

If ever that is a serious problem and a significant problem for people, I expect that it is a profoundly significant problem for young people who are gay. I can only imagine what it must be like to be 16 in this society and gay, and to wake up every day to debate like this, which de facto, implicitly and explicitly, defines them as different and must surely make them feel less comfortable in our society.

It seems to me that there could be a risk — although I do not accept it — in extending the rights embodied in Bill C-38, but I believe profoundly that there are risks if we do not extend these rights to gay people. Honourable senators, that is why I am supporting Bill C-38.

Hon. Tommy Banks: Honourable senators, I agree with everything my Alberta colleague has said, except the conclusion at which he has arrived.

There is no doubt about the rights. There is a doubt in my mind as to whether those rights can only be obtained by the use of a particular word, and I do not think that that is so. Therefore, honourable senators, I will be voting against Bill C-38, and I want to take a few minutes to tell you why. In doing so, I am likely to offend the beliefs of some and the sensibilities of others. I am sorry for that, but we must speak plainly when it comes to our beliefs, and it is one of the great glories of this country and this place that we can do that.

• (1550)

The first thing I want to do is distance myself, as Senator Di Nino did, and to make clear that my objections to this bill have nothing to do with arguments against it that are based on religion or morality. I regard those arguments as being wrong or ill-informed at best and reprehensible at worst. Many of the letters that I have received, and many of us have received, from across the country arguing against the bill fall into the category of reprehensible.

Nothing is more important in a democracy than the protection of its minorities because democracy does not consist of simply the rule of the majority. The best measurement of the success of a democracy is the way in which it treats its minorities. It is generally accepted that homosexuals — gays and lesbians transsexuals and bisexuals constitute a minority in our country. If that is so, it is a minority that is determined on the basis of sexual preference. Sexual preference is a physical characteristic. It is a genetically determined physical characteristic. It is the same as having brown hair or green eyes, being particularly tall, having an exquisite sense of rhythm or being tone deaf. We do not choose those physical characteristics. We cannot decide that we will be shorter, that we will have a natural, beautiful singing voice or that we will have olive-coloured skin. Those things are determined. We cannot decide which gender we will come to love. I believe that we are born with those genetically determined characteristics and we cannot change them.

A person having overcome sexual stereotypes and having come to the realization that his or her sexual disposition is towards persons of the same gender can no more choose to be heterosexual than the person can choose to be Black or very tall. Nor can a heterosexual simply decide to become a homosexual: You either are or you are not. Therefore, nothing is more important than fully protecting the rights of this minority, if it is a minority.

Senator Joyal reminded us of the wisdom of the open-minded and flexible nature of section 15 of the Charter. It is perfectly clear, as he said, that the rights of homosexuals must be read into section 15, and I believe they are. The exact same rights enjoyed by the majority should be enjoyed by the minority, as is the case in every minority or majority, however determined, whether it is of opinion, race, colour, creed, religion or physical characteristics. The exact same obligations which are required of the majority should also be required of the minority.

That is the noble end to which we should aspire, honourable senators, but with this bill, we are going about it the wrong way. We are taking a shortcut. We are taking the easy and expedient route.

Senator Joyal also reminded us of the wonderful characterization of the Canadian Constitution as a living tree, but it is a tree with many branches. The Constitution does not demand, require or even request that those branches be exactly the same or that the leaves on them be the same colour or shape. In fact, we want them not to be. We even want some of those branches to point in different directions.

This bill purports to end discrimination by changing the definition of a word. We might just as well pretend and prescribe in law that all synagogues, temples or mosques are to be called "churches" from now on in order to obviate religious bigotry. If we had, for whatever absurd reasons, such prescriptions in law, they would not for a moment change the fact that everyone would know, whatever the law might say, that that is a temple, that is a mosque and that is a synagogue. They are not churches. They are described separately and named separately. They are separate, and they are equal.

The foundation of the purpose of this bill, with which I profoundly disagree, is that by the disallowance of the term "marriage" to describe homosexual couples who form permanent, loving, exclusive, valuable relationships, those persons, merely by that disallowance, are denied a right. They are thereby degraded.

In other words, in order that its rights be fully executed, exercised and enjoyed, any minority and its institutions must be described in the same terms that describe the majority and its institutions.

Honourable senators, the rights which are properly those of homosexual couples in such relationships must include, if they do not already, all the rights of succession, property, inheritance, access and pensions. They must include rights and obligations of every kind, exactly the same rights and obligations that are found in relationships between persons of opposite genders. To the extent that those rights and obligations are not now precisely the same, it is our business to make them exactly the same. That is the business that we should pursue avidly, if any such shortcomings still exist.

However, achieving that end by this proposed shortcut method does a disservice to our society, including, as I believe we will see some years down the road, the homosexual parts of our society.

Homosexuals are proud. They are proud of the difference between them and others. This bill, if it were to become law in its present form, would require that homosexuals deny their identity, their right to distinct institutions and that there is a difference or a distinction.

There is, honourable senators, a difference and a distinction. It is one of which homosexuals are rightly proud, and no amount of semantic legerdemain can change that moral fact. We cannot end discrimination against minorities by proclaiming that institutions for their specific purpose cannot exist. If we accept the argument that in order to protect their rights, minorities and their institutions must be referred to only in terms that apply to the majority, and if we set out to do that by passing laws that proclaim that black is white, we will be deluding ourselves. We will wreak havoc on our languages because black will remain

resolutely and irrevocably black, and white will be undeniably and unchangeably white, whatever else the law might require us to call them. We will have political correctness gone mad, as a substitute for meaningful and substantive rights protection.

If it is required by law to refer to homosexual couples as "married" to protect their rights, then it follows that in order to protect the rights of individual gays and lesbians, we will need to pass a law requiring that they be referred to as heterosexual or straight.

I note, by the way, that "straight" is a perfectly good new common usage of a word to describe sexual preference, which derived from common usage and was not prescribed by law. Honourable senators, gays and lesbians do not wish to be referred to as heterosexual or as straight.

If homosexuals wanted to hide under a semantic bushel, we would not have homosexual organizations. We would not have gay pride proclamations or gay pride parades. Homosexuals would not be proud, as they are rightfully proud, and as we all should be rightfully proud, of whom and what we are.

• (1600)

It is the business of Parliament to protect rights, not to be lexicographers. In any case, the authors of dictionaries do not coin words, nor do they determine what the new usage of words will be. Dictionaries reflect, in their definitions, common and widely accepted and understood usage of words. Nor has the Supreme Court, in replying to the government's reference to them, answered the fourth question; that is, whether the definition of marriage as a union between a woman and a man would, in itself, offend against the Constitution.

Lexicography, honourable senators, is not our business. The protection of rights is our business. Denial of the meaning of words is not how to do it. Changing the meaning of words by fiat, by prescription, is not how to do it because that denigrates our languages. Changed usage of words should come from the people, not from governments, just as "gay" and "straight" have come, in their new usages, from the people. Those meanings are now in dictionaries, but they are not there because they were prescribed by governments. They are there because they became common usage by the people.

When I made this argument to Senator Mitchell, he responded quite correctly that we have had, in the past, a very salutary example of a legal decision which had the effect of changing the meaning of a word in law, the Persons Case, that righted a wrong, namely that women are, for the purpose of being named to this place, persons. However, there is a very important difference between that case and the present one. In the Persons Case, the decision was one which had the effect of making the law conform to the general, popular and universally held understanding of the word "person," which was said by the dictionaries at that time, to quote from *The Oxford English Dictionary*, to be "an individual, human being; a man, woman or child." A 1913 dictionary described "person" as "a living, self-conscious being, as distinct from an animal or a thing; a moral agent; a human being; a man, woman or child."

In 1913, everybody knew what "person" meant. It was only in an arcane and obscure and outdated English law that, for specific and clearly defined purposes, female persons were excluded. The Judicial Committee of the Privy Council of England took care of fixing that in six weeks.

The judicial decision in that case made the law conform to the generally held meaning of a word. The present bill seeks to change the generally held meaning of a word by proclamation, by parliamentary practice of lexicography, by edict. It is exactly backwards, senators. We need to find — society needs to find, as I said in a speech in this place in October 2001 — a word or set of words to properly describe the union of "woman and woman" and "man and man." These unions are no less valuable, no less long lasting and no less important to society than marriage. A term must be found to properly describe them, but the term is not "marriage."

As in the case of the rechristening of the words "gay" and "straight," the term will not be found by politicians or judges. We would fail. We would come up with something like the dismal and clinical alternative terms that have been touted around in the last few months. The right term will be found by the people. People are demonstrably creative when it comes to the coinage and redesignation of the use of words. When those words are found, we can recognize them as we should. We can then properly apply that term or those terms to the provision of rights of homosexual couples which are, now or should be in place by law, by regulation or by any other means at our disposal.

In the meantime, honourable senators, the present bill is an unsatisfactory shortcut. It is, if I may revert to the colloquial, a chickening out on the question of rights protection. It is hard to believe, given all the rhetoric of the past few weeks, that it is the path of least resistance. It is the easy way out. We should not here in this place, honourable senators, take the easy way out. We can do better than this. We should do better than this. It is in the hope that we will bring ourselves and that we will bring Parliament to do better than this, honourable senators, that I urge you to join me in voting against this bill or at least in modifying this well-intended but mistakenly devised measure.

Senator Mahovlich: Honourable senators, I have a question for Senator Banks.

The Hon. the Speaker: Honourable senators, there is some confusion. Senator Cools will be recognized as the next speaker. However, Senator Mahovlich has a question he would like to put to Senator Banks. That is why I am recognizing him before Senator Cools.

Senator Mahovlich: I want to commend the honourable senator on his speech. He took the words right out of my mouth.

The Hon. the Speaker: I have just been advised by the table that Senator Banks' time has expired.

Senator Banks: I would ask permission of the house to accept Senator Mahovlich's question.

Hon. Senators: Agreed.

Senator Mahovlich: Years ago, I was a roommate of Leonard "Red" Kelly. We used to go to New York. At that time, the Americans were starting to head for the moon and outer space. We used to have breakfast with Mr. Kelly's father-in-law. I often wondered what he did. His job was to build a dictionary containing the new terms that the Americans would need when they reached the moon. I am wondering if we should appoint someone to develop some new terms in this instance. I do not know who it would be, but something like this could be possible.

I received a number of calls this past week. I was approached by someone today who wanted to speak about it. I do not know why it has not been done. Perhaps two gentlemen living together would be known as a union, whereas two ladies living together would be unionized. I do not think there is anything wrong with that. Perhaps those are not the words, but I am sure there are gentlemen around here who do those things. I want to know your thoughts on that suggestion.

Senator Banks: I will rely, as I said, on the people who are involved to come up with the appropriate terms because I think they have so far and I believe they always will.

Senator Mahovlich: I am sure that they will not lose any of their human rights because of a different term. By so doing, I do not think we are offending any homosexuals or lesbians.

I read in the newspaper that one of the priests up in Northern Ontario had approached one of his parishioners, who is a member of Parliament, and denied him the right to receive Holy Communion. A lot of religious leaders will look at this bill. I do not know all religions, but I am sure that our committee will do a thorough study on this bill. I do not quite know how either the Muslims or the Protestants will treat this bill. I am a Catholic. Here, already, we have a problem in Northern Ontario. I am concerned myself. If I vote for this bill, will I be denied my right as a Catholic to receive Holy Communion? Where do I go from here?

Senator Banks: You will have to speak to your parish priest.

The Hon. the Speaker: Senator Spivak would like to ask a question, but leave was not granted. Senator Banks will have to request leave.

Senator Banks: If the house wishes, I would be happy to hear additional questions.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Hon. Mira Spivak: That was an interesting speech. However, even if we accept Senator Banks' premise that the union of two women or two men is not marriage, does the honourable senator not think that if two women or two men wish to have that title and are denied, it is a denial of their fundamental rights under the Charter?

• (1610)

Senator Banks: No.

Hon. Anne C. Cools: Honourable senators, I join this second reading debate to articulate my strenuous opposition to Bill C-38, respecting certain aspects of legal capacity for civil purposes.

Before going too much further, I would like to say that Senator Mahovlich has articulated an interesting question. He has asked: Are sacraments of the church rights? Senator Mahovlich, no sacrament of the church is a right. That is why marriage is not a right. Marriage has its historical origins in canon law as a sacrament of the church.

Honourable senators, it is not often in this place that I refer to skin colour, or that I speak very much about being a Black person, descended as I am from a group of people who were legally called free coloured people. In the history of the British Caribbean, they became very quickly the leading citizens of the British Caribbean. On behalf of Black people in Canada who are too powerless to have much of a voice in any formulation of public policy, it is an enormous mistake to compare the condition of homosexual people regarding marriage to the situation of the desegregation or lack of integration in the United States of America. As we know, the whole phenomenon of segregation of Black people grew as a historical development out of the condition of slavery. As we know, slavery was a condition of estate, property in human flesh.

The wondrous thing about the abolition of slavery, as it originated in William Wilberforce and others, is that for the African and Black peoples the result of that movement was that it ended slavery not only for the Black peoples but for all the peoples of the world. If I could use the words of John Wesley, the founder of the Methodist Church, slavery was the scandal of religion and a scandal of the human race. It was an execrable villainy.

All of that is en passant. It is something I know a lot about. One of these days I will talk about it in this place.

Honourable senators, as I said before, I wish to register my strenuous opposition to Bill C-38. I believe that the issues have been falsely framed as Charter rights issues and equality issues. Marriage is not now, and never has been, a right. It has always been a grand privilege, with its origins as a sacrament of the church, governed by the canon law, received from the civil law into the common law. No sacrament of the church is now, or has ever been, a right.

I believe that the judgments of the lower courts finding marriage between a man and a woman as unconstitutional are themselves unconstitutional. In fact, the full weight of the Constitution of Canada for 140 years has been to defend and to protect marriage as the foundational unit of the family.

The Confederation debates show this weight of the law, as the BNA Act developed from the 72 resolutions framed at the Quebec conference, 44 of which were authored by Sir John A. Macdonald himself. A simple reading of those debates and resolutions as they

developed at the London conference and as they ended up in the separation of marriage and divorce from one solemnization of marriage reveal very quickly that the entire constitutional scheme was intended to protect marriage. Most important, it was to protect Quebecers' leave to marriage in the rites of their own churches.

Marriage has been thought to be that institution which governs the heterosexual sexual union between a man and a woman. This sexual union is driven by the natural human and organic instinct towards reproduction. It is to this specific sexual union that nature and God have entrusted the grand mystery of life called procreation and the bringing forth of issue.

Honourable senators, I have been a defender of homosexual people all my life. I will also add that the public interest in marriage is the phenomenon of procreation. Other than that, there is no public interest. In fact, there is no public interest whatsoever in anyone's sexual happiness or in anyone's sexual gratification.

I was an adherent to Mr. Trudeau's notion that there is no place for the state in the bedrooms of the nation. I would add that he based his statement and his work at the time on the Wolfenden report and on the notion of the rights of privacy in sexual behaviour and in sexual morality. The bill before us does the opposite. The Liberal Party has once again abandoned Mr. Trudeau's view.

I believe that the conclusions of the Attorney General of Canada and a tiny minority of judges in the country are not only wrong and contrary to our Constitution, but their arrival at these conclusions were based in what I would describe as constitutional deconstruction, constitutional vandalism and, quite frankly, even some social engineering, because their result was not to extend rights to anyone. The result is to alter the fundamental nature and character of the institution of marriage.

Honourable senators, in any society where there were Black people, descendants of the African slaves, no institution was fundamentally altered to be able to accommodate those Black people.

Senator Joyal, the sponsor of Bill C-38 here in the Senate, gave us a wide review of the history of the development of the Charter, in particular section 15. However, I note that he presented very little evidence to support the reasoning behind the application of section 15 to marriage. I understand the reason for the application of section 15 to employment and all those kinds of issues, but not to marriage. He also mentioned in passing the question of abortion and its current legal status in Canada as achieved under the Charter.

Senator Joyal also mentioned en passant the fact that I sought and obtained intervenor status in the marriage reference in the Supreme Court. My reasons for seeking intervenor status were inspired by two things: The first was my abiding concern for the proper constitutional relationship between the constituent parts of the Constitution, being the cabinet, the courts and Parliament. The maxim is that there is to be constitutional comity between these three in the exercise of their proper constitutional roles and their proper constitutional jurisdiction. My second reason for

seeking intervenor status was the inspiration I received from Mr. Pierre Elliott Trudeau and his response to the 1980 repatriation decision. As we will recall, Mr. Trudeau put this reference to the Supreme Court of Canada, pressured by the then leader of Her Majesty's Loyal Opposition, Mr. Joe Clark.

Honourable senators, as we know, Mr. Trudeau was the progenitor of the Charter of Rights. In 1991, Mr. Trudeau spoke about the Supreme Court of Canada at the opening of the Bora Laskin Library in Toronto, named after the late Chief Justice of the Supreme Court. Mr. Trudeau spoke candidly, introspectively and reflectively about the Supreme Court's treatment of the 1980 repatriation reference. He also spoke sternly about the Supreme Court of Canada's role in this opinion decision, wherein he said:

... it is not a role to which a court of law, striving to remain above the day-to-day currents of political life, should aspire.

About the Supreme Court's conclusion he said:

... they blatantly manipulated the evidence before them so as to arrive at the desired result. They then wrote a judgment which tried to lend a fig-leaf of legality to their preconceived conclusion.

These are the words of a former prime minister, speaking about his experience as a prime minister in sending a reference to the Supreme Court for its advisory opinion.

About the court's manifest political role in that reference, he said:

Courts had often in the past refused to answer questions deemed unsuitable for judicial determination.... In choosing to answer the question there is little doubt that the Supreme Court allowed itself — in Professor P.W. Hogg's words — "to be manipulated into a purely political role" going beyond the lawmaking functions that modern jurisprudence agrees the Court must necessarily exercise.

(1620)

Honourable senators, Mr. Trudeau's speech on the Supreme Court's opinion, its politics and its legal, constitutional and political consequences for Canada is must reading for all those interested in Canada, in limited government and in constitutional balance. I drew my inspiration to intervene from Mr. Trudeau's response to that reference and from his opinion that the better legal reasoning of the court members was not the reasoning of the majority but that of the minority, being Justice Laskin, Justice McIntyre and Justice Estey.

En passant, honourable senators, I wish to record here a statement made by Mr. Justice McIntyre in the abortion case mentioned by Senator Joyal, R. v. Morgentaler, 1988 Supreme Court Reports. I do this, honourable senators, because two days ago Senator Joyal talked about the achievement of the Charter on abortion. Mr. Justice McIntyre, in a dissenting judgment, cited American case law that the courts should be careful not to extend laws beyond their obvious meanings by reading into them a conception of public policy that the particular court may happen

to entertain. He further cited case law showing that the court's criteria for constitutionality should not be the judge's beliefs. He also cited case law that upheld the original constitutional position that courts should not substitute their social and economic beliefs for the judgment of legislative bodies that are elected to pass laws. Mr. Justice McIntire said in that very judgment, dissenting:

The Court must not resolve an issue such as that of abortion on the basis of how many judges may favour "prochoice" or "pro-life." To do so would be contrary to sound principle and the rule of law affirmed in the preamble to the Charter which must mean that no discretion, including a judicial discretion, can be unlimited.

Honourable senators, I truly believe that many judges in the lower courts arrived at their decisions on marriage and homosexual marriage, not based on sound legal reasoning, not based on the constitutional history of marriage, but rather based upon the private opinions of judges: which judges were for gay marriage and which judges were against gay marriage. As we watched the appointments of new judges, days before the marriage reference was heard in the court in October, there was a lot of editorial commentary on the personal private positions of the judges on homosexual rights.

Honourable senators, I intervened in the Supreme Court on the marriage reference under the provision of section 53(6) of the Supreme Court Act. I asked the Supreme Court to include the constitutional interests of members of Parliament in its considerations on the marriage reference.

Senator Rompkey has said this debate has been interminable; therefore there should be closure. Nothing has been said in the Senate, but it is interminable. I knew that one of the reasons that this reference was sent off to the Supreme Court was to be able to use those results as a big stick to beat many members of Parliament.

Honourable senators, all members of Parliament are empowered by the Constitution Act, particularly section 18 of the BNA Act, to perform a constitutionally defined representative, deliberative, legislative and parliamentary role. This includes our rights to debate, determine and to vote on all major questions of Canadian public policy. I sought intervenor status to ask the court to decline to answer the reference questions, because to answer those questions would be to involve the court in politics, particularly partisan politics, particularly in the Liberal Party caucus: a role, to my mind, that is not consistent with our constitution nor in the public interest.

I took the position that the lower court's action to redefine marriage was contrary to the constitutional design of Canada because such redefinition of marriage could be achieved only by a formal constitutional amendment requiring the collective action of the Parliament of Canada and the legislative assemblies of the provinces. Incidentally, honourable senators, that was the opinion that prevailed in the very first marriage case in the court in British Columbia, rendered by Mr. Justice Pitfield. I took the position that it is not the role of the Supreme Court to amend the constitution or to act as representatives of the citizens of Canada because the courts have no representative role in the body politic —

The Hon. the Speaker: Senator Cools, I regret to advise that your 15 minutes have expired.

Senator Cools: Could I have two minutes to finish?

Hon. Senators: Agreed.

Senator Cools: As members of Parliament, I acknowledge that we are bound by the Constitution, but so are the courts. The constitution and its design assert the doctrine that is known as the supremacy and the sovereignty of Parliament. This doctrine holds that the courts and the judges are subject to the constitution and constitutional order.

Further, as a member of Parliament, I asserted that the power of Canada's courts under the Charter of Rights and Freedoms does not and cannot amend our constitutional rights as members of Parliament under section 16 of the BNA Act. The Constitution is a totality. It is a design for government, for limited government, which places important limits on the judicial, executive and parliamentary lawmaking. Constitutions are about the exercise of power and the relations between the institutions of power. Constitutions are designs for governance. The Constitution of Canada consists not only of the Charter of Rights and Freedoms but also includes all those provisions about the institutional framework for governments that make up the Constitution Acts 1867 and 1982.

Honourable senators, I would like to point out wherein the confusion rests. The Constitution Act 1982, section 52, states clearly that the Constitution of Canada is the supreme law of Canada. It is very clear, and I want to put it on the record:

52(1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

Honourable senators, the public has been misled, and so have many senators, to believe that the language of the Charter says that the Charter of Rights and Freedoms is the supreme law of Canada. It does not say that. Section 52 of the Constitution Act 1982 says the Constitution of Canada, the whole constitution, including Parliament, is the supreme law of Canada.

Honourable senators, in closing, section 24(1) of the Charter says:

24(1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just under the circumstances.

Honourable senators, section 24 of the Charter of Rights and Freedoms honours and includes the high court of Parliament in the words "court of competent jurisdiction." This Parliament, the highest court of the land, also has the responsibility and power to declare and determine that the laws of Canada are consistent with the constitution. As I said before, honourable senators, there is no constitutional hierarchy with the Supreme Court at the top. The

high court of Parliament is fully qualified, per section 24, as well to make determinations as to the constitutionality of any issue.

In closing, again, —

The Hon. the Speaker: Senator Cools, I regret once again to advise that the extended time has expired.

Senator Cools: Honourable senators, I have one quotation left. May I read that for the record?

Hon. Senators: Agreed.

Senator Cools: Honourable senators, I appreciate this. Thank you.

The phenomenon of buttressing the principles and the constitutional balance have been articulated by many great jurors, including the United Kingdom's Justice Fletcher Moulton. The guiding principle in the exercise of power should always be restraint. About a particular need in a particular case for curial restraint and for judicial self-restraint, Lord Justice Fletcher Moulton, in a 1912 Court of Appeal decision called Scott v. Scott, said:

The courts are the guardians of the liberties of the public and should be the bulwark against all encroachments on those liberties from whatsoever side they may come. It is their duty therefore to be vigilant. But they must be doubly vigilant against encroachment by the courts themselves. In that case it is their own actions which they must bring into judgment and it is against themselves that they must protect the public.

Honourable senators, I asked the court to decline to answer the questions, as I thought the Government of Canada would invariably use the court's opinion to compel votes and proceedings in the Houses of Parliament. I am pleased to say that the Supreme Court accepted my submissions in at least one of the four questions and declined to answer one question, which I believed to be the most important one, so I felt honoured and justified.

• (1630)

Honourable senators, I had not intended to speak to the intervener status, but Senator Joyal inspired me in a way when he raised the issue of my factum. The documents include several affidavits that are available for all senators to read. I am honoured and pleased that Senator Joyal read my factum because I have deep respect for him. It meant a great deal to me that he read the document. I thank honourable senators for the extended time.

Hon. Joan Fraser: Honourable senators, I will not take the time of the chamber to explain the long and sometimes difficult process by which I arrived at my decision in strong support of Bill C-38. During that process, I reviewed some of the concerns touched upon by Senator Banks. Although I had not intended to speak to the bill, I rise to respond to his comments in respect of minority rights because one enormous responsibility of the Senate is to consider and protect minority rights.

I have spent a fair amount of my life thinking about minority rights, not just as a citizen of Canada whose duty it is to honour those principles, but as a member of one true minority, English Quebecers, and of another group, women, who, while a statistical majority, have some of the characteristics of a minority. It had a very great impact on me when 30 judges told me that I could not take what to me had been the attractive and honourable route of supporting a civil union that would be equal in every way to marriage but would not share the name. Had it been two, three, four, five, six or seven judges, I might have continued to disagree with them. However, 30 judges from coast to coast across Canada is a mighty weight of judges. Serious, renowned legal scholars have assured me in personal conversation that the only way past the judgment of those 30 judges would be to use the notwithstanding clause.

Honourable senators, think for a moment about the notwithstanding clause and about Canada's Charter, which includes in section 1 all the flexibility that a decent society could ever want to take exceptional measures where they are socially desirable. Section 1 of the Charter states:

The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

If it meets that test, we can do it. The notwithstanding clause gives us a way to make exceptions that are not justified in a free and democratic society, but I do not want to go there, ever. I certainly do not want to go there for matters concerning relationships of love between adult Canadians.

Senator Banks made one point, which I share to a degree, and it is important that we pay attention to it. He noted something that I had always understood to be one of the glories of Canada: Unlike the United States, part of the foundation of Canadian society is that we have many arrangements, legal and others, that recognize distinctions in which different groups or different conditions are separate and equal. For example, French and English are equal, although they are not the same. Anglophones and francophones, by extension, are equal, although they are not the same. They have constitutional recognition of their differences and of their adamantly equal rights, with a few exceptions for English Quebecers, but we will not go there.

In a society that believes in, supports and upholds minority rights, it is key, when going down the tricky road of recognizing distinctions, that we recognize the distinctions that the minority wishes to have recognized. It is not for a majority to tell a minority what should matter to it. It is not for a majority to tell a minority how it should feel. For example, it is not for an anglophone to say to a francophone, "Speaking French does not matter to me so why should it matter to you?" It does matter profoundly, and vice versa. We acknowledge, recognize, legitimize, honour and are proud of those distinctions, but they must be based upon the needs and wishes of the minority.

In this case, I have been moved by the degree to which gay and lesbian people across this country have made it clear that the distinction between marriage and civil union is, to them, one that is degrading. As someone said to me the other day, it is akin to sending them to the back of the bus. Certainly, that would not

have been my intention and I know it would not have been Senator Banks' intention. However, if that is how it will be perceived by the minority that we are sending to the back of the bus, we do not do that in this country. We just do not do that. We honour all of our citizens equally and, because we believe in minority rights, our society embraces the distinctions that those who are distinguished choose. We do not accept distinctions that those who are distinguished by the distinctions reject or feel hurt by. To that extent, we reject the separate but equal charade that existed for so long in the United States.

Honourable senators, my point is that in Canada we celebrate and enshrine distinctions only when those distinctions are sought by the minority in question. The minority Catholics and Protestants in Upper Canada and Lower Canada at the time of Confederation sought guarantees of their educational rights and were given those guarantees. However, we would not have imposed confessional separation on any group. We would not impose on any group the kind of ghettoization that labels them as being different. If the distinction springs naturally from the group itself, that is different and we honour it. Our country has a wonderful history, and much to teach the world about how to go about building a society that does that. We do not impose distinctions. We do not impose apartheid. We no longer impose distinctions as between men and women, which end up discriminating against the men or the women.

• (1640)

I think the 30 judges in these cases were not doing what judges did do for so long in the case of women. They were not lagging behind society. They were moving with society. To some extent, we do not know — as has been suggested here — what the final consequences of the legislation in question will be. We do not know that about any law we pass. Any law we pass is a leap of faith. We try as best we can to do the right thing. In this case, because of my profound belief in Canada's proud history of supporting minority rights, I believe it is the right thing to do to support this bill.

The Hon. the Speaker: Are you rising to ask a question, Senator Banks?

Senator Banks: I am. Is there time?

The Hon. the Speaker: There is some time but it is up to Senator Fraser whether or not she accepts it.

Senator Banks: Will you accept a question?

Senator Fraser: One.

Senator Banks: I have a number but I will limit myself to one. As I said in respect to what Senator Mitchell said, I agree with everything you said except the conclusion at which you arrived.

I will refer to the question you raised about Upper Canada and Lower Canada and the religious minorities, in respect of my contention that, in this country, while it has never worked anywhere else, we do have successful "separate and equal." The point that I wish to make — and my question will be what is your response to it — is that when we said to the Protestant minority in Quebec and to the Catholic minority in Ontario, whatever they were then called, "Your rights are protected," we did not do so by

saying to the Protestants in Quebec, "You can practice whatever you want inside that church, but you must call it a Catholic church." We did not say to the Catholics in Ontario, "You can practice whatever version of religion you wish in your church, but you must call it a Protestant church," which is what the present bill sets out to do.

Can the honourable senator answer my question?

Senator Fraser: I believe they were called Her Majesty's Roman Catholic subjects in the Province of Ontario, but you will have to check that one out.

In this case, the minority in question is seeking to use the word "marriage" to indicate that they are fully honoured and recognized in our country. In my view, it is not for you and me, Senator Banks, as members — I am assuming in your case — of the heterosexual majority, to tell them that that wish is wrong.

Let me use a parallel, if I may, which is perhaps appropriate in this chamber. Go back to the *Persons* case and, as Senator Joyal so beautifully reminded us in his speech on this bill, in the days before women were granted equal rights in Canada, men used to tell us how terrible it would be to give us these things that were being talked about, such as the vote, or equal property rights or equal rights of any kind. It would be terrible. We would not like it. We would be happier barefoot, pregnant and in the kitchen. They knew what we wanted and what was good for us, so they were able to say "This is our field, not yours."

An Hon. Senator: Who said that?

Senator Fraser: Lots of men said that. We are faced with a similar situation today, and I do not want to go there. I know I have not persuaded you, but I thought you spoke with such passion and eloquence that I would try to respond.

Hon. Marjory LeBreton: Honourable senators, I was not intending to speak for very long on this bill. I had taken a few quotes that I thought, if I had an occasion to speak, I would read into the record. However, sitting here this afternoon listening to the debate, I find myself wondering what percentage of the Canadian population think like I do and where do I fit, in all of this?

Personally, I seriously question the validity of this issue. The courts have spoken in all but two provinces and one of the territories. The government makes the argument that the bill is required for the two provinces and one territory, but in my view, and in the view of many, this is a matter that would be resolved in any event in a very short period of time.

Honourable senators, I think it is important to remind this chamber that the government has come to this point in direct conflict to what they said in the recent past. I will quote the Deputy Prime Minister in the House of Commons when she was the Minister of Justice, and she said this, on behalf of the government:

We on this side agree that the institution of marriage is a central and important institution in the lives of many Canadians. It plays an important part in all societies worldwide, second only to the fundamental importance of family to all of us. The institution of marriage is of great importance to large numbers of Canadians, and the definition of marriage as found in the honourable member's motion is clear in law. As stated in the motion, the definition of marriage is already clear in law. It is not found in a statute, but then not all law exists in statutes, and a law is no less binding and no less the law because it is found in the common law instead of statute.

The definition of marriage, which has been consistently applied in Canada, comes from an 1866 British case which holds that marriage is the "union of one man and one woman to the exclusion of all others." That case and that definition are considered clear law by ordinary Canadians, by academics and the courts. The courts have upheld the constitutionality of that definition...

That was the then Minister of Justice, Anne McLellan, the present Deputy Prime Minister.

Following an Ontario Court decision, Layland and Beaulne, the Deputy Prime Minister and then Minister of Justice emphatically said:

Let me state again for the record that the government has no intention of changing the definition of marriage or of legislating same-sex marriages. I fundamentally do not believe it is necessary to change the definition of marriage in order to accommodate the equality issues around same-sex partners which now face us as Canadians. The courts have ruled that some recognition must be given to the realities of unmarried cohabitation in terms of both opposite sex and same-sex partners. I strongly believe that the message to the government and to all Canadian governments from the Canadian public is a message of tolerance, fairness and respect for others. Marriage has fundamental value and importance to Canadians and we do not believe on this side of the house...

— and she was referring to the government side —

...that importance and value is in any way threatened or undermined by others seeking to have their long-term relationships recognized. I support the motion for maintaining the clear legal definition of marriage in Canada as the union of one man and one woman to the exclusion of all others.

I remind honourable senators that those are the words of a senior member of the Liberal government, the Deputy Prime Minister of Canada, who was speaking as Minister of Justice.

Today, honourable senators, we have members in the government attack people who make identical statements for identical reasons. Terms like "bigot," "reactionaries" and "human rights violators" are resorted to. This is hypocrisy and intellectual dishonesty on the part of the government.

• (1650)

You can see, honourable senators, why I am having difficulty understanding the motives behind Bill C-38. As I said at the beginning of my remarks, I personally believe that the matter has already been settled by many of the courts in the land.

Many good and logical arguments have been made on both sides of the debate. One that struck me as particularly cogent was that of Stanley Hartt which appeared in *Maclean's* magazine in April. Mr. Hartt later appeared before the Justice Committee in the other place. The constitutional expertise and knowledge of Mr. Hartt in this area is not questioned by anyone. As a matter of fact, he was part of the Supreme Court challenge with Professor Henry Monaghan that senators intervened in on the health care issue.

Mr. Hartt wrote in an article in Maclean's in April:

Paul Martin and his government have contrived to present to the country the proposition that the matter of same-sex marriage is settled and that the Supreme Court has upheld the view that anything less than making marriage equally available to persons of the same gender is a violation of the Charter of Rights and Freedoms and therefore unconstitutional. This simply isn't so, and if the Prime Minister doesn't understand it, then his justice minister, Irwin Cotler, certainly knows it. Cotler is among the best lawyers in Canada. He knows that the Supreme Court (or any other court, for that matter) has never been asked and has never answered a question about the constitutionality of the alternative proposed by Stephen Harper: that gays be allowed the same rights, benefits and obligations as any married couple, but without the title of marriage...

If Canada were to adopt a regime of civil unions for gays and lesbians, it is virtually certain that this would be found to be constitutional, and that it would be so without the need for governments to invoke the notwithstanding clause in the Charter of Rights and Freedoms. The idea would be that, from this form of union, would flow all of the rights that attach to marriage under our laws, federal or provincial. Persons in that form of permanent and exclusive relationship could adopt children, seek to separate from their partners or to terminate the union, be entitled to alimentary support, including for any children in their custody, give or withhold consent for their partners' medical treatment when the individual was unable to do so, inherit even in the case of intestacy, receive social benefit entitlements and enjoy, without limitation, every other benefit our legal system offers to married people.

In this long article, Mr. Hartt made a very cogent point. He said:

The Charter protects rights, not words, so Canada's legislators have already appropriately acted to ensure that particular civil consequences of marriage are available to people in other forms of unions, including gays.

Honourable senators, I have seen the hypocrisy of the government and heard the arguments of people like Stanley Hartt. All this debate swirls around in my mind, but I have great difficulty getting too worked up about this subject. As I have told

many of you personally, I am not a religiously motivated person. I was raised in the United Church of Canada. I grew up in a very happy family on a farm in rural Ontario. I attended church and Sunday school regularly. I was presented with hymn books and bibles for perfect attendance, and I sang in the church choir. However, given all that background, I am not religiously motivated. Yet, I consider myself a Christian in the dictionary definition of the word which, according to Webster's is "commendably decent or generous." I do not believe that, in order to be a good Christian, you have to walk through the doors of a church, synagogue or edifice of any other religious organization.

I have much respect for those who feel strongly about the traditional definition of marriage. I may not agree with them, but I would fight to the death for their right to those beliefs. None of us should deplore these comments, or say that people have no right to have their say. They have that right, just as we do on all issues.

I do not accept the argument that the purpose of marriage is solely procreation. Many people marry and make the conscious decision not to have children. Many members of my own family have done so. I believe that when people who are not religiously motivated fall in love and decide to marry, they do not immediately think about how many children they will have.

I am a live-and-let-live person. I am a married, heterosexual woman, but I feel in no way threatened by other people of other sexual orientations and other unions. I do not believe that what other people do has any effect on me, and I have no right to judge them as they have no right to judge me.

I have many friends who are gays and lesbians, and some of them do not like the term "marriage" either. Many of them have told me that all they want are all the rights that come with marriage.

I believe that this issue should be decided by Parliament and that we should then move on, because there are far more important issues facing Canadians, including waiting times for health care, the state of our education system, productivity issues, children living in poverty and many more.

Honourable senators, many people other than I must wonder why Parliament is so consumed with this issue. I believe this is a classic case in which church and state should be separated. I do not want this issue intruding on the lives of Canadians in a reactionary and hurtful way. I am sure that most families do not want to spend their summers arguing about this. This debate has reached a high level of intolerance, and there must be a great number of Canadians who want it off the public agenda. That is certainly my position.

Being the strong individuals that we are in the Conservative Party, we are free to vote as we choose, as was the case in the other place. I treasure that we in the Conservative Party are always encouraged to speak our mind. I appreciate the courage of the senators on the other side who spoke against the government. I think a number of senators opposite who are opposed to this bill, but they will not be here for the vote.

Hon. Terry M. Mercer: Honourable senators, I am pleased to speak in this debate. First, I want to solve a problem raised by Senator Banks and Senator Mahovlich. I asked my office to look up "marriage" in the online version of the Merriam-Webster dictionary, which must be up to date since it is online. The definition of "marriage" there, under 1 a (2) is:

...the state of being united to a person of the same sex in a relationship like that of a traditional marriage \leq same-sex marriage \geq ...

That is my service to Senator Banks and Senator Mahovlich.

Many of our colleagues have spoken of how difficult it was for them to reach a decision on this bill.

• (1700)

I have to tell honourable senators that this decision has not been difficult at all for me because of my long-standing commitment to the rights of people in the gay and lesbian community.

I continue to ask Canadians who talk to me about this issue how their lives will change if Bill C-38 passes. For those of us who are heterosexual and in a traditional relationship, I suggest that our lives will change very little. However, I suggest for those members of the gay and lesbian community that their lives will change a great deal because they will finally feel that they are equal to the rest of us.

I was quite impressed with some of the comments of Senator Mitchell. In particular, he said that if anyone's rights are in jeopardy, everyone's rights are in jeopardy. What a phrase to remember; what a phrase to live by. It is one we should all consider as we debate many other issues in this chamber.

Honourable senators, I was somewhat disturbed by one honourable senator today who spoke about people in the gay and lesbian community having children and that it was only by extraordinary means that they could have children. He spoke at some length about adoption. As the founding vice-president of the Adoptive Parents Association of Nova Scotia, there is nothing unusual about adoption. It is an extremely special way to have children. Those of us who are parents of adopted children are very proud of that fact. We want to separate our discussion of this bill from any discussion about adoption. The adoption of children and the nurturing of those children is a wonderful experience. My 24-year-old son is the pride of my life. All of those other people who I know in the Adoptive Parents Association will tell you the same thing about their children.

I have been a practising Catholic all my life, having grown up in St. Joseph's Parish in the north end of Halifax and then moving to St. Stephen's Parish. I was married in St. Michael's Parish down the street from Senator Buchanan, and then moved over to St. Lawrence Parish, in Fairview. I have always been an active member of a parish. When I moved to Toronto for a few years, I was an active member with Joan of Arc Parish. When I was in Ottawa for a short period of time, I was a member of the

Resurrection of Our Lord Parish. When I returned to Halifax, I was at St. Pius X, and I am now at St. Francis of Assisi in Mount Uniacke.

As I say, I have always been an active member of my church. Interestingly enough, I have never hidden my support of the gay and lesbian community. I have never hidden my support of legislation such as this. As honourable senators will know, I am not a quiet person.

Some Hon. Senators: Oh, oh!

Senator Mercer: I thought I would acknowledge that fact.

It is interesting to note that in expressing my support of this type of legislation, not once in all of my years has anyone in the church, whether it be a parishioner or a member of the pastoral team, ever spoken to me about my support. We mix up the membership of the church with some of the leadership of the church.

When I lived in Toronto, Senator Eggleton and I were members of the same parish. There is a great difference between the parishioners and the members of the church and its leadership. Again, I am very proud to be part of this.

I support Bill C-38 in honour of a number of friends and relatives. I do so in honour of my nephew, Michael. I do so in honour of my friends Cathy and Judy. I do so in honour of my friend Jay. I do so in honour of my friends Laurier and Harvey. I stand very proud in support of Bill C-38.

Some Hon. Senators: Hear, hear!

Hon. Terry Stratton (Deputy Leader of the Opposition): As honourable senators know, when a bill comes along, the first question we should ask and always try to ask is whether it is needed. I fundamentally believe that if it has already been dealt with somewhere else, then why would we deal with a bill such as this? I believe that and continue to believe that on any bill we examine.

I am not here to give my opinion today. What I have decided to do is to listen to the witnesses we hope to hear next week. I have real questions. I want to find out why this bill is needed because I honestly do not believe it is required. As honourable senators know, the lower courts across the land have and are already deciding what will take place in this country.

I am more concerned today about the committee having a balance and hearing from witnesses on both sides of the issue so that there is a full and complete discussion. This chamber is renowned for its ability to conduct full and complete discussions in committee. That is the essence of how we work. This must and should happen with respect to the study of Bill C-38 in committee.

I want to thank the Steering Committee of the Finance Committee. It met this week to structure how the Finance Committee can properly hear witnesses on Bill C-48 so that there is a balanced representation and a full discussion.

I am not suggesting that we line up 20 witnesses who all say the same thing. That is not the issue here. The issue here is to have a full and balanced discussion. If it takes two days, it takes two days. If it takes three days, it takes three days. It does not at all mean that we will have token representation. We cannot do that. We must have a full discussion.

Senator Kinsella: Hear, hear!

Senator Stratton: I wish to emphasize that this be done with regard to the Legal Committee, to which Bill C-38 will be referred. I feel confident that it is being done with the Finance Committee. I wish to thank Senator Oliver, Senator Day and Senator Downe, the members of the steering committee, for putting this together.

I would ask honourable senators to consider that if and when they invite witnesses to give evidence on Bill C-38 that be a balance of views. Balance does not just mean balance from one side or the other. I am also referring to a regional balance across the country. That must take place. If it does not, we are not doing our jobs.

I thought about going through the list for the Legal and Constitutional Affairs Committee, but I decided that it would not be inappropriate. I am asking of the Chair of Standing Senate Committee on Legal and Constitutional Affairs to work with our representative on this side of the chamber.

An Hon. Senator: That has been done.

Senator Stratton: I have not seen evidence that this has been done. If I see evidence showing that, I will be quite happy. I do not want to see a token hearing where, bang, bang, we get it done in a day or a day and a half.

(1710)

This is an area that is so critical to this chamber and to the country as a whole. Rather than looking at it selfishly we should look at the bill in detail, as well as other issues that derive from our discussions, and then come to our conclusions. That is absolutely critical. I would ask that that be done.

Some Hon. Senators: Hear, hear!

Hon. Lise Bacon: Honourable senators, I feel I should reply to what I have just heard.

[Translation]

Honourable senators, I will respond in my mother tongue because I feel attacked and somewhat emotional. Had a deputy chair been present — and I requested several times that a replacement be appointed — it would have been much easier to work with a list and another member of the steering committee.

A balance was established among the different regions in question and on the basis of calls to various individuals who accepted or refused our invitation. Fortunately, the members of

the opposition party decided today to replace the deputy chair of the committee. We have already held one working session, and calls have been made, too. So I do not accept any blame from the Deputy Leader of the Opposition.

[English]

Senator Stratton: Honourable senators, I was not attempting to apportion blame. That is not why I was standing here. I was not standing and pointing. I said I could have gone that route and I chose not to. I simply asked.

I understand the extenuating circumstances. I am not apportioning blame. What I am asking for on behalf of this side is that that be done.

Some Hon. Senators: Question!

The Hon. the Speaker: Some senators are calling for the question, and I see no senator rising to speak.

I remind honourable senators that we are proceeding under our rules that relate to time allocation, and it is now the obligation of the Chair to put the question.

The question having been put, if a standing vote is called for, it takes place at 5:30 today under these circumstances. I will put the question.

It is your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

The Hon. the Speaker: Those honourable senators in favour of the motion will please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Those honourable senators opposed to the motion will please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker: By operation of our rules, the vote will be held at 5:30 today and I will ask that the bells ring now.

Honourable senators, perhaps there is an agreement for a different time?

[Translation]

Hon. Fernand Robichaud: Honourable senators, I thought we had agreed not to consider the rule that the vote be held at the conclusion of the debate, at 5:30 p.m., so there could be a 30-minute bell in order to give all the honourable senators the opportunity to vote.

If the honourable senators are agreed, I believe a 30-minute bell would suffice.

[English]

Senator LeBreton: That is agreeable.

The Hon. the Speaker: It has been proposed by the whips that we have a 30-minute bell, which I will call at a quarter to 6:00.

Is that agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Call in the senators.

The vote will be at 5:45.

• (1740)

Motion agreed to on the following division:

YEAS THE HONOURABLE SENATORS

Austin Bacon Baker Biron Bryden Callbeck Carstairs Chaput Christensen Cook Cordy Cowan Day Dyck Eggleton Fitzpatrick Fraser Grafstein Harb Hubley Johnson Joyal

Lapointe Lavigne Maheu Mahovlich **McCoy** Mercer Milne Mitchell Pearson Pépin Peterson Poulin Poy Ringuette Rivest Robichaud Rompkey Spivak Stollery

Tardif
Trenholme Counsell—43

NAYS THE HONOURABLE SENATORS

Banks Buchanan Cochrane Comeau Cools Di Nino Kelleher Keon Kinsella Phalen Stratton Tkachuk—12

ABSTENTIONS THE HONOURABLE SENATORS

Andreychuk Corbin Hervieux-Payette LeBreton Plamondon Prud'homme—6

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Joyal, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in the gallery of our former colleague the Honourable Al Graham. Welcome back.

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I would now like to call Motion No. 85, by Senator Andreychuk.

The Hon. the Speaker: If I could, our practice would be to deal with Government Business before we go to other items on the Order Paper.

Senator Rompkey: There is a consensus, honourable senators, to stand other items of Government Business and, in fact, to stand all other items of business in their place on the Order Paper as they stand, with the exception of Motion No. 85.

The Hon. the Speaker: Is that agreed, honourable senators?

Hon. Senators: Agreed.

INTERNATIONAL DEVELOPMENT ASSISTANCE

MOTION URGING GOVERNMENT TO MEET COMMITMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Inhuson:

That the Senate of Canada calls upon the Government of Canada to establish a specific timetable that will enable Canada to meet its longstanding commitment to provide 0.7 per cent of its Gross National Income as official international development assistance; and

That the Senate of Canada calls upon the Government of Canada to provide funds, within the budgetary process, to achieve this objective at latest by the year 2015, beginning, with an immediate 100 per cent increase in official development assistance in the next fiscal year.—(Honourable Senator Austin, P.C.)

Hon. Jack Austin (Leader of the Government): Honourable senators, I undertook to speak to this motion by today, and I appreciate that the house is here to hear me out.

Honourable senators, today begins a three-day meeting of G8 leaders at Gleneagles, Scotland, with British Prime Minister, Tony Blair, as the host. The G8 is an informal group of eight countries — Canada, France, Germany, Italy, Japan, Russia, the United Kingdom and the United States of America. The European Union, China and other non-members will be present as invited guests.

Canada is represented by Prime Minister Paul Martin, but among senior officials are Peter Harder, Deputy Minister of Foreign Affairs and Ambassador Robert Fowler, who leads the Prime Minister's special advisory team on Darfur and represents Canada at the New Partnership for Africa's Development, NEPAD.

The Gleneagles summit priorities include the global economic outlook, trade, climate change, development aid, clean energy initiatives, combating terrorism, nuclear non-proliferation and issues of national and international security. Also to be discussed is the world response to the Indian Ocean disaster, reform a modernization in the Middle East and North Africa, and, as an outcome of the support expressed by Canada at and since the 2002 Kananaskis G8 summit chaired by Prime Minister Jean Chrétien, the human security, health, and economic development of Africa.

Host Prime Minister Tony Blair has placed Africa at the top of his agenda. NEPAD leaders from Algeria, Egypt, Nigeria, Senegal, South Africa, Ghana, Tanzania and Ethiopia will join with G8 leaders to discuss relevant topics.

NEPAD was created in 2001 by African leaders to address in a cooperative way a pan-Africa development plan. Its plain goal is to promote accelerated growth and sustainable development, to eradicate Africa's widespread and severe poverty, and to promote economic self reliance. NEPAD has been fully endorsed by the 54-member African union. The UN is also backing the NEPAD program by adopting General Assembly Resolution 57/2 on September 16, 2002.

Canada led the G8 response to NEPAD, as chair of the G8 in 2002. At Kananaskis, the G8 Africa Action Plan was adopted. Simply put, it set out commitments to NEPAD in such sectors as security, governance, education, health, economic growth, debt reduction, agriculture and water. For countries in Africa that implement the NEPAD program, half or more of G8 official development assistance was announced at a 2002 UN conference on financing and development amounting to U.S. \$60 billion, and that is to be dedicated to Africa over the ten years which begins in 2006. This is in addition to G8 programs underway that currently account for three-quarters of the total aid to Africa.

At the G8 meeting at Evian, France, in 2003, the leaders agreed to the Canadian proposal to expand the G8 NEPAD partnership to include other key development partners such as the World Bank, the International Monetary Fund, the Organisation for Economic Co-operation and Development and the World Trade Organization. This larger grouping is known as the Africa Partnership Forum, and it now accounts for some 98 per cent of overseas development assistance to Africa.

It should be noted that in preparation for the Gleneagles G8 session, the British government, in February 2004, established the Commission for Africa. Its final report on March 11, 2005, advised that African leadership was essential to change conditions on that continent. G8 and other support for Africa was essential, and there was an immediate need to remove the burdens of debt. The growth of an indigenous private economic sector was vital, and a key priority was the focus on a dramatic reduction on infectious diseases of many types.

The Honourable Ralph Goodale, Minister of Finance, co-chaired the working group on the economy. In support of the Africa Action Plan, Canada has committed \$6 billion in new and existing resources, beginning in 2002 for a five-year term. At Kananaskis, Canada also undertook to increase its assistance by 8 per cent a year and to direct half or more of these additional resources to Africa. The 2005 budget has provided an increase of \$3.4 billion over five years to the year 2010, and aid to Africa will double 2003-04 levels by 2008-09.

Canada has also created the \$100 million Canada Fund for Africa. While there are many other vital programs funded by Canada, special mention should be made of Canada's leading role in supporting the African Union peacekeeping efforts in Darfur. Until now, Canada has been a leading donor, with \$190 million committed.

I have mentioned the special advisory team on Darfur headed by Ambassador Fowler. As is well known in the Senate, the other members are Senator Dallaire and Senator Jaffer.

Against all this background, there is always the need to be realistic about the challenges. While there is a sense of timeliness in addressing the key problems of governance, health, the economy and security of the person in Africa raised at the Gleneagles summit of the G8 in Scotland, and some parts of Africa are making measurable progress, there remains a substantial part of Africa where the challenge to such progress is enormous.

In areas of fighting terrorism, the UN, the African Union or other organizations, given the right military capability, can deal with the terrorist militias and bring fighting to a halt, but a key concern remains. How does any such effort proceed to deal with a social and political culture which gives no value and social responsibility to its citizens, is exploitive in its essence, and it is fundamentally corrupt and self-perpetuating? How do we deal with a controlling group if it uses the forms of a state government simply to plunder the country for its own self-aggrandizement?

However, the challenge is there, and it is being taken up at Gleneagles. The host of this year's G8 meeting, Prime Minister Tony Blair, laid out the case: "There can be no excuse, no defence, no justification for the plight of millions of our fellow human beings in Africa today. And there should be nothing that stands in our way of changing it."

His conviction is solidly founded on the facts and recommendations contained in the report early this year of the Commission for Africa.

Most of the G8 nations have promised substantial increases in direct aid, with the target of doubling those percentages by 2010. Other recommendations of the Commission for Africa focus on African access to G8 markets for their agricultural production, and also for textiles and other manufactured products. Money and effort must be contributed to both peacemaking and peacekeeping. Corruption must be dealt with by close monitoring of fund transfers and by embargoes on trade in diamonds, oil and other commodities that support terrorism and corruption.

• (1800)

Increased funding and financial support to Africa, while desirable, are not the sole answer to African progress.

The Hon. the Speaker: Senator Austin, I am sorry to interrupt, but it is six o'clock.

Honourable senators, there is a consensus to not see the clock.

The Hon. the Speaker: It is agreed, honourable senators?

Hon. Senators: Agreed.

Senator Austin: From 1960 to 2003, the developed world spent U.S. \$568 billion in today's dollars to end poverty in Africa, and yet the problems of poverty today are greater than they were in 1960. Whether Professor Jeffery Sacks and the United Nations Millennium Project he has fostered is the right way to go remains to be seen. It is a big plan that is backed by the World Bank and the International Monetary Fund. How will accountability and transparency be assured? How will results be measured? Will any one agency or entity be responsible, or as in the past, will so many be responsible that none will be?

Is the Millennium Project itself in jeopardy? Even with the support of President George W. Bush, the U.S. Congress is in the process of cutting in half the \$3 billion he requested in the current budget. How seriously can the world community take U.S. intentions in respect of their millennium goals if Congress cannot see the priority?

Senator Andreychuk's motion points specifically to establishing a timetable for Canada to meet a goal of 0.7 per cent of its GDP to be contributed to Official Development Assistance. The timetable she proposes is that the goal be met by 2015. The goal of 0.7 per cent was first proposed in 1969 by a commission headed by the late former Prime Minister Lester Pearson. It was a goal to which the Trudeau government subscribed, as did subsequent governments. It is a goal that is supported today by the Martin government. However, none of those governments has at any time set a specific timetable by which that goal was to be reached. In the mid-1970s, the Trudeau government reached 0.5 per cent, but then shocks to our economy began a downward spiral. Today, Canada contributes nearly 0.3 per cent to Official Development Assistance, which is up from 0.23 per cent a few years ago.

The government headed by Prime Minister Martin remains committed to the 0.7 per cent goal, as I have said, but it is not prepared to adhere to any timetable. There are a number of good reasons for this. The 0.7 per cent goal is of Official Development Assistance that is specifically defined by the OECD. Canada takes the position, as do the majority of ODA contributors, that the definition is too narrow by today's demands for international assistance. Since the OECD set its definition, a wide variety of new factors have come into play in the international system. Canada's role in responding should also be taken into account. This government believes that Canada's development assistance should never be dictated by what is or is not included as a part of ODA. Rather, it should be allocated by what is needed, what is effective and what is right.

On May 12, Prime Minister Martin announced close to \$200 million to support the peace process in Sudan. I have mentioned this item. Much of this spending will help the African Union to build peace and save innocent lives, yet little of this assistance counts toward ODA. Should we have turned our backs on Darfur because this spending does not count toward our ODA target? I urge senators to avoid a single-minded focus on ODA, which could push us away from spending on other kinds of non-eligible activities and could blind us to new, innovative means for fighting poverty. Such proposals included the Tobin Tax — an excellent suggestion that would be imposed on the movement of currency markets and would produce a substantial fund to help to alleviate world poverty. I hope proposals of that type have not been forgotten.

Peacekeeping is also one of the non-ODA eligible activities. Is peacekeeping any less important to Canadians or to impoverished nations than the OECD's 0.7 per cent target? Arguably, sustaining peace and security is the most important first step toward alleviating poverty around the world. Canada contributes \$100 million to \$300 million annually to support these peace and security operations and \$100 million to \$200 million annually through the UN to finance other countries in their peacekeeping operations. Should Canada scale back its commitments in Afghanistan and Haiti because much of this spending does not count toward ODA? Should it matter that \$1 billion over 10 years to the Global Partnership Program does not count as Official Development Assistance or that Canada's peacekeeping dues to the UN, which could amount to \$500 million annually, also does not count? Those dues alone could equal up to another 10 to 15 per cent toward our existing ODA if they did apply.

It is the view of the Government of Canada that it should not matter what the ODA amount is but what Canada's per capita total contribution is to a wide variety of international goals. Canada believes that peacekeeping and crisis intervention are equally important tools for alleviating poverty. It will continue to support these activities whether they count toward reaching 0.7 per cent ODA.

Senator Andreychuk believes the government should follow the example set by Norway, Denmark, Sweden, Luxembourg and the Netherlands, all of whom have exceeded the 0.7 per cent goal. As well, a few European nations have established specific timetables for meeting this goal.

I congratulate these countries on their achievements but, as I have illustrated, this is not an easy goal for Canada to achieve. Of the countries that have met the 0.7 per cent goal, all of them count ODA as the bulk of their commitment to fighting poverty abroad. They do not contribute significant military resources to peacekeeping and crisis prevention, an area in which Canada is punching well above its weight. In fiscal 2004-05, Canada's operations abroad cost more than \$1 billion, none of which is captured in ODA, but then one cannot have development without peace. Canada is not interested in dramatically back-loading its foreign aid or making aid conditional on our economic growth, as some of the European plans propose. We will do our part today, using whatever resources we can.

I want to reiterate that Canada is committed to reaching 0.7 per cent ODA, but not at the expense of other forms of aid that are equally important, if not more important, to impoverished countries. The war on poverty must be fought on multiple fronts. ODA must be balanced with adequate funds for peacekeeping, education, debt relief and improving market access for developing countries.

We also cannot effectively foster sustainable development without targeted and focused efforts. That is why Canada has taken concrete steps to focus aid in countries and sectors where we know we have the expertise and resources to have a lasting and effective impact and in countries where they have the governance capacity to make sure our resources are put to good use.

We are also refining our sectoral focus to four priority areas: health, particularly the fight against HIV/AIDS; basic education; governance; and private sector development. As I carefully noted earlier in this presentation, Africa, the continent where the needs are clearly the greatest, has been placed at the centre of the government's development efforts. Since 2002, Canada has allocated at least half of each increase to the aid budget to that continent. Budget 2005 promises to deepen that commitment by doubling our overall development assistance to Africa in just five years. The international policy statement issued in April 2005 will provide an opportunity to deepen and carry forward the government's resolve to take a focused and coherent approach to Canada's role in the world. It will solidify an integrated approach to international policy, positioning Canada to meet the challenges of a complex global environment and providing a blueprint for action to strengthen our diplomatic, development, defence and trade capabilities.

(1810)

While Roy Culpeper, President of the North-South Institute, has criticisms of Canada's international policy statement, which he says

...falls short of providing either anything like a vision of a better world or a coherent and integrated policy framework...

he also adds that

The statement does contain much that is positive, however, including some of the Institute's principal recommendations. In particular the development chapter, which actually puts forward a vision of an equitable and sustainable world, makes a strong case about the links between human security, equity and peace. It embraces the agenda of the Millennium goals and commits to measuring Canada's contribution toward them. The chapter calls for a whole government approach to development, covering both aid and non-aid channels such as trade, investment and debt relief. Moreover, the chapter recommends the bilateral aid program be divided among 25 recipients.

Let me continue with Canada's actions, not just words. We will spend \$3.4 billion in international assistance in 2005-06, an increase of 21 per cent over the previous year. In addition, Canada will spent \$343 million to combat infectious diseases, including polio, \$265 million for tsunami relief, and when we pass Bill C-48, we will have the authority to spend an additional \$500 million over the two coming fiscal years.

On the issue of debt owed to Canada by developing countries, to date over \$680 million of the \$1.16 billion owed to Canada has been forgiven and it is our intention to forgive it all. Canada is a leader in pressing G7 countries and the World Bank and International Monetary Fund to forgive debt and give Africa and other parts of the developing world a fresh start. We are paying 100 per cent of interest owed to the African Development Fund, and the International Development Association Budget 2005 earmarks \$174 million for this initiative.

Prime Minister Paul Martin has led the pressure on creditor nations and organizations to forgive debt, starting in 1997 as Canada's finance minister. This has resulted in the recent announcement of G7 finance ministers that \$40 billion is being forgiven; a notable achievement.

An important part of Budget 2005 is the financial commitment which is being put behind Canada's April international policy review. The budget supports more trade assistance to developing countries and a higher capacity for Canada's international military role, as well as diplomatic initiatives.

This budget represents a major investment in Canada's international capacity. Of special note is the increase over five years of \$12.8 billion in military preparedness, which will add 5,000 full-time troops and 3,000 reservists. This is a key investment in human security where needed.

Honourable senators, I was happy to learn that the Conservative foreign affairs critic in the House of Commons, Stockwell Day, was quoted in the press as saying that he is largely supportive of Budget 2005's international pledges. He said,

These are the priorities we asked for and worked for.

Honourable senators, trade is a crucial issue for the developing countries. Rich countries spent \$280 billion in 2004 subsidizing farmers and agri-business, according to a *New York Times* report on Saturday, June 19, 2005. This is more than triple the spending on aid. If all trade barriers were removed and agricultural subsidies eliminated, the World Bank estimates that developing countries would benefit by \$100 billion.

President George W. Bush last week invited the G8 summit to reduce agricultural subsidies. He said that the United States would abandon its massive subsidies if Europe would do the same. It is a welcome initiative, but would Congress support the President? Is Europe interested? How long should we keep our fingers crossed?

To move Canada into compliance with the 0.7 per cent goal set narrowly many years ago by the OECD on top of the assistance Canada is already committed to, according to the Honourable Ralph Goodale, Minister of Finance, would cost Canada an additional \$28 billion to \$48 billion by 2015. To do so, in the view of the government, would be to bet on the outcome of many factors well into the future. As Prime Minister Martin has made clear, Canada will not make a commitment it will not absolutely keep.

Without detracting from the efforts of Denmark, Norway, Sweden, the Netherlands and Luxembourg, who have met the 0.7 per cent goal, they are small populations, small geography countries without the enormous costs of Canada's geography in transportation, communication and other infrastructure. They also do not have the non-ODA commitments of Canada.

Countries such as Germany and France have made their undertakings based on various conditions' precedent, such as economic performance. However, what is the difference between "Yes, but" and "No, but"? As Finance Minister Goodale commented:

...that kind of conditionality renders the immediate usefulness of the promise a bit less useful.

As The Globe and Mail for July 5, 2005 reports, there is a growing consensus among anti-poverty organizers and prominent Africans that the 0.7 per cent pledge is not the best idea. This is the case with a number of Africans who sat on the Commission for Africa. One executive from the Ivory Coast is quoted as saying,

There has been too much emphasis on aid. It is insulting to suggest we are sitting here with a begging bowl. We know how to have an economy and if we could only operate on a level playing field, we could take care of ourselves.

Honourable senators, Lester B. Pearson's goal should not be lost sight of, nor should a variety of approaches from clean water in a village to a major millennium project. There are many means of helping impoverished nations, and Canada will remain a leader in reaching toward that essential goal.

I ask all senators to support the government's stated position, as opposed to a fixed deadline at this time, by voting against this motion.

The Hon. the Speaker: I have two senators rising. Do any of you want to ask a question?

Hon. Peter A. Stollery: No, I would like to speak.

Honourable senators, I want to say a few words to endorse what the Leader of the Government in the Senate has just said. I support very strongly the Prime Minister's position on the 0.7 per cent.

As an observer of Africa and the Spanish-speaking countries for nearly 50 years, and one who has lived an important part of his life in the developing countries and has watched the disaster unfold over the last nearly 50 years, I have a very strong view that this kind of placebo, this kind of statement committing the government to a timetable on the 0.7 per cent, is a formula that was devised in the post-colonial period in the 1960s. Forty years have gone by since then. Africa has been destroyed by the agricultural policies of the western nations more than anything else.

If we are to talk about things that are important, let us talk about things that are important, not giving people aid in all of its complexities. We all want Africa and the Spanish-speaking countries to succeed, but the very countries that say "We give more than 0.7 per cent in aid," in the case of Sweden, for example, they pay eight times the world's price for their domestically produced sugar. The United States spends billions upon billions of dollars every year to support 20,000 people who are employed in cotton production, and destroys the livelihoods of 5 million Africans.

It is dreadful that we should get caught up in the polemics of whether it should be 2 per cent, 3 per cent, 5 per cent or 7 per cent and not talk about the real issue, which is that in Africa, where 85 per cent of the people work in agriculture, the real issue is agriculture, and the debates that are going on in the WTO under the auspices of the Doha Round, trying to get rid of the subsidies which have wreaked enormous havoc on the peasant societies of Africa and the Spanish-speaking countries — and I am sure others that I could name.

Being tied up in this kind of a debate is actually damaging because it removes the discussion from the real thing — in particular, agriculture — which has wrecked lives, created poverty and destroyed hundreds of millions of people, and that is not an exaggeration.

• (1820)

I have watched this happen for nearly 50 years. Africa, which was self-sufficient in food only 40 years ago, today spends as much money importing food as it receives in aid. What use is that aid when all we do is subsidize exports from the developing countries to Africa and, in the process, destroy their societies?

This kind of polemic is bad for Africa and the Spanish countries. The Prime Minister was absolutely right in what he said about making these pronouncements and everyone then going home and forgetting what the pronouncements were. He is to be complimented for that insight. In the atmosphere that exists

today, it sounds as if we are against progress and against people improving themselves. We are not. We are in favour of people improving themselves, and using an antiquated formula from another time is damaging to the developing countries.

Hon. Jerahmiel S. Grafstein: Honourable senators, I laud Mr. Pearson's visionary goal of 0.7 per cent, as senators on all sides do. I fully support the statement of Senator Austin. He has set out a very compelling case. I support the Prime Minister, who has been very careful to point out that we have increased our commitment along the path to 0.7 per cent. We are progressing smartly along that path.

I support the thrust of the comments made by the Chairman of our Foreign Affairs Committee, Senator Stollery. I serve on that committee as well, as does Senator Andreychuk, and I would have hoped that this vote would not have taken place today. I believe it is premature because a committee of the Senate is seized with the mandate of studying a substantial recipient of aid — Africa. We are grappling with the issue. As the chairman pointed out, the hearings started in February and we have heard over 100 witnesses. I believe it is premature for us to opine on this issue before hearing from our Foreign Affairs Committee.

The senator puts us in a very difficult position. The leadership has agreed to a vote, but I hope that we can postpone it. Absent that, I will regretfully vote against the motion at this time because we will not have an informed debate until we have heard from our own Foreign Affairs Committee, to which the Senate unanimously referred the substantive question of Africa.

Hon. Consiglio Di Nino: Honourable senators, no more than months ago the Prime Minister stood beside Bono and made pronouncements that led people to believe he would adopt, support and try to achieve in a reasonable time frame the promise we made of 0.7 per cent. Bono did not tell Mr. Martin that he thought the Prime Minister had not been truthful with him, but he basically said that he did not think the Prime Minister was keeping his promise.

I would urge honourable senators to read the public record of Prime Minister Martin's pronouncements on this issue over the last two to five years. When did he change his mind? I agree that this will not solve the problems of Africa. Our colleague said that Africa spends all the aid money it receives on importing food. If they did not receive that aid, they would all starve to death because we have destroyed their agriculture, as we know very well from the witnesses we have recently heard. Does the honourable senator want to cut back on aid?

We have heard as well that aid is pity, which is wrong in itself. We also heard from the minister herself before our committee that two thirds of our aid is tied aid, that it has strings attached to it. It is not aid necessarily given solely to help another nation. This aid is contingent on being able to dump product of equal value that no one else wants.

We are being disingenuous on this issue as it relates to Africa. No one is wrong and no one is right. We should be discussing whether we are serious about keeping the commitments we make

to the world, including the Canadian public, with regard to Africa. A Liberal prime minister made a commitment some years ago, and successive prime ministers, including Paul Martin, have as recently as a year ago supported it.

We have made a lot of mistakes. We can and must do much more. I fully expect that the Foreign Affairs Committee will make some recommendations soon, but we must try to fulfil the commitment that we made to the world. Considering the billions of dollars that we have lost through boondoggles in the last five years of this government's administration, we should at least attempt to keep that promise.

There is some progress being made in Africa today. We have heard some marvellous stories of improvement, but many people are still dying, many of them of hunger. We should be keeping our promise to them of meeting the 0.7 per cent target by 2015.

Hon. Terry M. Mercer: Honourable senators, I rise to do something that I have not done since I have been in this chamber, and that is to speak in favour of an opposition motion. I will be voting with Senator Andreychuk on this issue.

Honourable senators, we are an extremely rich country. We have unlimited potential. We have, indeed, contributed great things to the world, but simply because we have done that in the past does not mean that we cannot go the extra mile. Senator Stollery is correct that the aid is used to pay for food. However, we cannot fix all the problems. This is step one. We need to fix the problems with subsidies in the EU, the United States and other parts of the world. There is no simple solution.

However, this is a very important symbolic step, which can hold this up as a beacon against which we can measure ourselves. We as Canadians can stretch to try to reach this goal that we have set. Is it obtainable? Maybe not, but if we do not set the goal and say, "This is our target," we will never get anywhere. We need to stop talking the talk and we need to start walking the walk.

• (1830)

As a member of the left-wing of the Liberal Party, I am proud to support Senator Andreychuk and I consider in doing so that I am honouring the memory of Mr. Pearson and Mr. Trudeau.

Hon. Joan Fraser: Honourable senators, I grew up in the Third World and my heart is 150 per cent with Senator Andreychuk and, indeed, with Senator Mercer; however, my head is not quite there.

People who live in those countries are not stupid. They are tired of promises that end up being broken or being kept in ways that are ineffective, that do not meet the real needs of the people on the ground.

I am grateful to Senator Andreychuk for putting this subject on the agenda. I hope that she and all of us will keep the question of Canada's aid on the agenda of Parliament this year, next year and for years to come. We are talking about a very long-term project. It is true that we are, ounce for ounce, the most blessed country in the world. If we do not move mountains to help, who will? To use a phrase that is often used in political debate, to just dump money on problems is not the way to solve the problems. In many cases it makes things worse.

Let me tell you one story about my family. We were living in a small mining town that had been carved out of the bush in the wee South American country of Guyana. There was not arable land in that region. The topsoil there was sand, basically, on which many trees grew, but nothing else. There were lots of rivers and creeks. There were many piranhas but not large quantities of edible fish. There was no road. As a result, almost all the food that people ate, apart from what they got by keeping a chicken in the front yard, had to be brought in, so it was expensive.

My father thought, "Wouldn't it be a great thing if we had a local source of protein?" He arranged to have a large, perfect, modern fish pond built and stocked with fish. Then, the fish would grow and we would have a nice source of cheap local protein. The pond was built and flooded with lovely fresh creek water and appropriate fish for the environment were brought in from I do not know where. The pond was stocked. Everyone waited the appropriate period of time and then went to see if they could catch the first fish. There were no fish. My father thought something had gone wrong. He had the water tested. Everything was fine. He brought in another lot of fish and stocked the pond. Everyone waited the appropriate amount of time, then tried to catch the first fish and, again, no fish. My father had the pond drained. In the bottom of the pond was the biggest, fattest, happiest alligator anyone had ever seen. The moral is that we do not want to feed just the alligators.

My parents obviously tried to do various things, but I think perhaps the major project that my mother engaged in was the one that was of most lasting benefit to the country. She was highly instrumental in the creation of a nursing school in our remote little town. My mother had taught nursing in Canada, and knew how to run nursing schools and how to make them work. That was a long-term project. It was not just finding the money; it was being sure that the hospital where they would train was properly equipped, and that there were local instructors who were properly trained not only in nursing, but also in teaching. It was necessary that the education network that fed in the students was properly geared to provide the right kind of encouragement. As well, it was fundamental to persuade the fathers of all those marriageable daughters that they ought to send their daughters to nursing school instead of marrying them off at the age of 16. This was a long-term project, but the school did work. For that whole region of the country, it made an enormous difference. However, that took a long time, a significant amount of local work and the dedication of humans and human intelligence, not just dollars. Canada should be doing that in modern terms, not just feeding the alligators.

Hon. A. Raynell Andreychuk: Honourable senators, I wish to close the debate.

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators. The bell is a one-hour bell, unless otherwise agreed to.

Some Hon. Senators: Now!

[Translation]

Hon. Fernand Robichaud: Honourable senators, I believe you would find there is agreement for the vote to take place now.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

• (1840)

[English]

Motion negatived on the following division:

YEAS THE HONOURABLE SENATORS

Andreychuk Chaput	Kinsella LeBreton
Cochrane	Mercer
Di Nino	Nolin
Dyck	Plamondon
Hervieux-Payette	Spivak
Johnson	Stratton
Keon	Tkachuk—16

NAYS THE HONOURABLE SENATORS

Austin	Grafstein
Bacon	Hubley
Baker	Joyal
Banks	Mahovlich
Carstairs	McCoy
Christensen	Milne
Cook	Pépin
Cordy	Peterson
Cowan	Poulin
Dallaire	Robichaud
Day	Rompkey
Eggleton	Stollery
Fitzpatrick	Trenholme Counsell—27

Fraser

ABSTENTIONS THE HONOURABLE SENATORS

Corbin—1

Hon. Marcel Prud'homme: Honourable senators, I wish to speak on a point of order.

I realize that there was no bell, but I was in a conference call with Senator Comeau, to which he will attest. We did not hear any bells. We both missed the vote, which I regret. I was about to say that I want to prove to my electors that I am still here. However, I ask honourable senators not to laugh too much because I will run again for the House of Commons. What else would you want me to do at 75? My only problem is, I do not know which party I will run for.

Honourable senators, I want to show that I was here but there was no bell and I rushed to get here. You can see I am out of breath. I was not far away but it was too late. We were on a conference call in my office.

Hon. Gerald J. Comeau: Honourable senators, I also wish to put on the record that had I been advised that there was a vote, and generally we have a bell to call in the senators, I would have certainly voted according to my conscience. Obviously, there seems to be a new way of doing things in this chamber, so I will try to find out what the new process is by which senators are excluded from being able to vote if they are outside the chamber. I will not raise it as a point of order at this time, but it is out of the ordinary for senators not to be called for a vote.

The Hon. the Speaker: Honourable senators, the practice is as described by Senator Prud'homme and Senator Comeau. However, as we all know, we are able, by unanimous consent, to circumscribe the rules and that is what happened in this case. The unanimous agreement of honourable senators was to take the vote immediately. Unfortunately, I cannot make any further comment, so there is no point of order.

THE HONOURABLE ISOBEL FINNERTY

TRIBUTE ON RETIREMENT

Hon. Marcel Prud'homme: Honourable senators, I wish to bring to the attention of the Senate that it is too bad that Senator Finnerty is absent, but it is our last chance to say goodbye to our good friend. By the time we come back she will no longer be a senator. In her absence, I want to join with all those who said so many nice things about her. I regret that I could not join in at that time, but we will have a chance to salute her in the gallery when we come back. I wish to advise honourable senators that she is retiring July 16.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday, July 18, 2005, at 6 p.m., and that rule 13(1) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Monday, July 18, 2005, at 6 p.m.

THE SENATE OF CANADA

PROGRESS OF LEGISLATION

(indicates the status of a bill by showing the date on which each stage has been completed)

(1st Session, 38th Parliament)

Wednesday, July 6, 2005

(*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)

GOVERNMENT BILLS

	Chap.	25/04	8/05	31/05							
	R.A.	04/12/15	05/03/23*	05/06/29*					r F		
	3rd	04/12/02	04/12/08	05/04/20	05/06/21		05/06/20				
	Amend	observations	0	0	0		0	0	_්		
	Report	04/11/25	04/11/25	05/03/07	05/06/16		05/06/16	05/06/29	05/06/23		
(SENATE)	Committee	Legal and Constitutional Affairs	Banking, Trade and Commerce	Social Affairs, Science and Technology	Transport and Communications		Energy, the Environment and Natural Resources	Foreign Affairs	Agriculture and Forestry	Legal and Constitutional Affairs	Social Affairs, Science and Technology
	2nd	04/10/26	04/11/17	05/02/02	05/06/07	Bill withdrawn pursuant to Speaker's Ruling 05/06/14	60/90/50	05/06/15	05/06/15	05/06/15	02/06/30
	1st	04/10/19	04/10/28	04/11/02	05/05/12	05/05/16	05/05/19	05/05/19	05/05/31	05/06/07	60/90/50
	Title	A second Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	An Act to implement an agreement, conventions and protocols concluded between Canada and Gabon, Ireland, Armenia, Oman and Azerbaijan for the avoidance of double taxation and the prevention of fiscal evasion	An Act to amend the Statistics Act	An Act to authorize the construction and maintenance of a bridge over the St. Lawrence River and a bridge over the Beauharnois Canal for the purpose of completing Highway 30	An Act to amend the Aeronautics Act and to make consequential amendments to other Acts	An Act to amend the Export and Import of Rough Diamonds Act	An Act to amend the Criminal Code and the Cultural Property Export and Import Act	An Act respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign countries	An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act	An Act to amend the Hazardous Materials Information Review Act
	No.	S-10	S-17	S-18	S-31	S-33	S-36	S-37	S-38	S-39	S-40

GOVERNMENT BILLS (HOUSE OF COMMONS)

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NO	litle	5	7	Committee	Keport	Amend	3.5	K.A.	Cuap.
C-2	An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act	05/06/14	05/06/20	Legal and Constitutional Affairs					
C-3	An Act to amend the Canada Shipping Act, the Canada Shipping Act, 2001, the Canada National Marine Conservation Areas Act and the Oceans Act	05/03/21	05/04/14	Transport and Communications	60/90/50	0 observations	05/06/22	05/06/23*	29/05
2	An Act to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment	04/11/16	04/12/09	Transport and Communications	05/02/15	0	05/02/22	05/02/24*	3/05
C-5	An Act to provide financial assistance for post-secondary education savings	04/12/07	04/12/08	Banking, Trade and Commerce	04/12/09	0 observations	04/12/13	04/12/15	26/04
0-0	An Act to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts	04/11/18	04/12/07	National Security and Defence	05/02/22	0	05/03/21	05/03/23*	10/05
C-7	An Act to amend the Department of Canadian Heritage Act and the Parks Canada Agency Act and to make related amendments to other Acts	04/11/30	04/12/09	Energy, the Environment and Natural Resources	05/02/10	0	05/02/16	05/02/24*	2/05
0	An Act to amend the Financial Administration Act, the Canada School of Public Service Act and the Official Languages Act	05/03/07	05/03/21	National Finance	05/04/14	0	05/04/19	05/04/21*	15/05
6-0	An Act to establish the Economic Development Agency of Canada for the Regions of Quebec	05/06/02	05/06/08	National Finance	05/06/16	0	05/06/21	05/06/23*	26/05
C-10	An Act to amend the Criminal Code (mental disorder) and to make consequential amendments to other Acts	05/02/08	05/02/22	Legal and Constitutional Affairs	05/05/12	0 observations	05/05/16	05/05/19*	22/05
C-12	An Act to prevent the introduction and spread of communicable diseases	05/02/10	02/03/00	Social Affairs, Science and Technology	05/04/12	2	05/04/14	05/05/13*	20/05
C-13	An Act to amend the Criminal Code, the DNA Identification Act and the National Defence Act	05/05/12	05/05/16	Legal and Constitutional Affairs	05/05/18	0	05/05/19	05/05/19*	25/05
C-14	An Act to give effect to a land claims and self-government agreement among the Tlicho, the Government of the Northwest Territories and the Government of Canada, to make related amendments to the Mackenzie Valley Resource Management Act and to make consequential amendments to other Acts	04/12/07	04/12/13	Aboriginal Peoples	05/02/10	0	05/02/10	05/02/15*	1/05
C-15	An Act to amend the Migratory Birds Convention Act, 1994 and the Canadian Environmental Protection Act, 1999	04/12/14	05/02/02	Energy, the Environment and Natural Resources	05/05/17	0 observations	05/05/18	05/05/19*	23/05

C-20 An C-22 An C-23 An C-23 An Hun	An Act to amend the Telefilm Canada Act	04/12/13	05/02/23	Transport and	05/03/22	0	05/03/23	05/03/23*	14/05
	and another Act			Communications		observations			
	An Act to provide for real property taxation powers of first nations, to create a First Nations Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority and First Nations Statistical Institute and to make consequential amendments to other Acts	04/12/13	05/02/16	Aboriginal Peoples	05/03/10	0	05/03/21	05/03/23*	9/05
	An Act to establish the Department of Social Development and to amend and repeal certain related Acts	60/90/50	05/06/21	Social Affairs, Science and Technology					
and	An Act to establish the Department of Human Resources and Skills Development and to amend and repeal certain related Acts	05/06/02	05/06/14	Social Affairs, Science and Technology					
C-24 An Cor Cor (fis	An Act to amend the Federal-Provincial Fiscal Arrangements Act and to make consequential amendments to other Acts (fiscal equalization payments to the provinces and funding to the territories)	05/02/16	05/02/22	National Finance	05/03/08	0	02/03/09	05/03/10*	2/02
C-26 An Sel	An Act to establish the Canada Border Services Agency	05/06/14	05/06/29	National Security and Defence					
C-29 An	An Act to amend the Patent Act	05/02/15	05/03/07	Banking, Trade and Commerce	05/04/12	2	05/04/14	05/05/05*	18/05
C-30 An Act	An Act to amend the Parliament of Canada Act and the Salaries Act and to make consequential amendments to other Acts	05/04/13	05/04/14	National Finance	05/04/21	0	05/04/21	05/04/21*	16/05
C-33 A	A second Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004	05/03/07	05/04/20	National Finance	05/05/03	0	05/05/10	05/05/13*	19/05
C-34 An Sur Ca Ma	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 2, 2004-2005)	04/12/13	04/12/14		1	1	04/12/15	04/12/15	27/04
C-35 An Ca Sur Ma	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 3, 2004-2005)	04/12/13	04/12/14				04/12/15	04/12/15	28/04
C-36 An	An Act to change the boundaries of the Acadie—Bathurst and Miramichi electoral districts	04/12/13	05/02/01	Legal and Constitutional Affairs	05/02/22	0 observations	05/02/23	05/02/24*	90/9
C-38 An	An Act respecting certain aspects of legal capacity for marriage for civil purposes	05/06/29	90/20/90	Legal and Constitutional Affairs		1			
C-39 An Fis Aci	An Act to amend the Federal-Provincial Fiscal Arrangements Act and to enact An Act respecting the provision of funding for diagnostic and medical equipment	05/02/22	05/03/08	Social Affairs, Science and Technology	05/03/10	0	05/03/22	05/03/23*	11/05

C-40 C-41 C-42	Title	0	2""2	Committee	Report	Amend	35	R.A.	Chap.
	And Andrew Comment of the Comment of								
	An Act to amend the Canada Grain Act and the Canada Transportation Act	05/05/12	05/05/16	Agriculture and Forestry	05/05/18	0	05/05/19	05/05/19*	24/05
	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 4, 2004-2005)	05/03/22	05/03/23			1	05/03/23	05/03/23*	12/05
	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2006 (Appropriation Act No. 1, 2005-2006)	05/03/22	05/03/23	1	I	1	05/03/23	05/03/23*	13/05
C-43	An Act to implement certain provisions of the budget tabled in Parliament on February 23, 2005	05/06/16	05/06/21	National Finance	05/06/28	0	05/06/28	05/06/29*	30/05
C-45	An Act to provide services, assistance and compensation to or in respect of Canadian Forces members and veterans and to make amendments to certain Acts	05/05/10	05/05/10	National Finance	05/05/12	0	05/05/12	05/05/13*	21/05
C-48	An Act to authorize the Minister of Finance to make certain payments	05/06/28	90/10/90	National Finance					
C-56	An Act to give effect to the Labrador Inuit Land Claims Agreement and the Labrador Inuit Tax Treatment Agreement	05/06/16	05/06/20	Aboriginal Peoples	05/06/21	0	05/06/22	05/06/23*	27/05
C-58	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006)	05/06/15	05/06/21	1	-		05/06/22	05/06/23*	28/05
			COMIN	COMMONS PUBLIC BILLS					
No.	Title	1st	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-259 /	An Act to amend the Excise Tax Act (elimination of excise tax on jewellery)	05/06/16							
C-302 A	An Act to change the name of the electoral district of Kitchener—Wilmot—Wellesley—Woolwich	04/12/02	04/12/07	Legal and Constitutional Affairs	05/02/17	0 observations	05/02/22	05/02/24*	4/05
C-304 A	An Act to change the name of the electoral district of Battle River	04/12/02	04/12/07	Legal and Constitutional Affairs	05/02/17	0 observations	05/02/22	05/02/24*	2/02
			SEN	SENATE PUBLIC BILLS					
No.	Title	1st	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2 A	An Act to amend the Citizenship Act (Sen. Kinsella)	04/10/06	04/10/20	Social Affairs, Science and Technology	04/10/28	0	04/11/02	05/05/05*	17/05
S-3	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/10/06	04/10/07	Official Languages	04/10/21	0	04/10/26		

No.	Title	1st	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
8.4	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/10/06	Dropped from Order Paper pursuant to Rule 27(3) 05/02/22						
S-52	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	04/10/07	04/10/26	Transport and Communications (withdrawn) 04/10/28 Legal and Constitutional Affairs					
9-8	An Act to amend the Canada Transportation Act (running rights for carriage of grain) (Sen. Banks)	04/10/07							
2-5	An Act to amend the Supreme Court Act (references by Governor in Council) (Sen. Cools)	04/10/07	Dropped from Order Paper pursuant to Rule 27(3) 05/02/22						
φ ω	An Act to amend the Judges Act (Sen. Cools)	04/10/07	Dropped from Order Paper pursuant to Rule 27(3) 05/06/16						
S-9	An Act to amend the Copyright Act (Sen. Day)	04/10/07	04/10/20	Social Affairs, Science and Technology			1		
S-11	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/10/19	04/10/26	Legal and Constitutional Affairs	05/04/12	2 observations	05/05/17		
S-12	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/10/19	05/06/01	Energy, the Environment and Natural Resources	05/06/29	0			· ·
S-13	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/10/19	04/11/17	Legal and Constitutional Affairs			1	1	
S-14	An Act to protect heritage lighthouses (Sen. Forrestall)	04/10/20	04/11/02	Social Affairs, Science and Technology	05/03/21	0	05/03/23		
S-15	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/10/20		Subject-matter 05/02/10 Transport and Communications					
S-16	An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.)	04/10/27		Subject-matter 05/02/22 Aboriginal Peoples					
S-19	An Act to amend the Criminal Code (criminal interest rate) (Sen. Plamondon)	04/11/04	04/12/07	Banking, Trade and Commerce	05/06/23	+	05/06/28		

No.	Title	18t	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
8-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/11/30		Subject-matter 05/02/02 Legal and Constitutional Affairs					,
S-21	An Act to amend the criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	04/12/02	05/03/10	Legal and Constitutional Affairs					
S-22	An Act to amend the Canada Elections Act (mandatory voting) (Sen. Harb)	04/12/09							
S-23	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	05/02/01							
S-24	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	05/02/03	05/03/10	Legal and Constitutional Affairs					
S-26	An Act to provide for a national cancer strategy (Sen. Forrestall)	05/02/16	05/06/01	Social Affairs, Science and Technology					
S-28	An Act to amend the Bankruptcy and Insolvency Act (student loan) (Sen. Moore)	05/03/23	05/06/01	Banking, Trade and Commerce					
S-29	An Act respecting a National Blood Donor Week (Sen. Mercer)	05/05/05	05/06/01	Social Affairs, Science and Technology					
S-30	An Act to amend the Bankruptcy and Insolvency Act (RRSP and RESP) (Sen. Biron)	05/05/10							
S-32	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	05/05/12							
S-34	An Act to amend the Department of Justice Act and the Supreme Court Act to remove certain doubts with respect to the constitutional role of the Attorney General of Canada and to clarify the constitutional relationship between the Attorney General of Canada and Parliament (Sen. Cools)	05/05/16							
S-35	An Act to amend the State Immunity Act and the Criminal Code (terrorist activity) (Sen. Tkachuk)	05/05/18						1	
S-41	An Act to amend the Department of Foreign Affairs and International Trade Act (human rights reports) (Sen. Kinsella)	05/06/21							

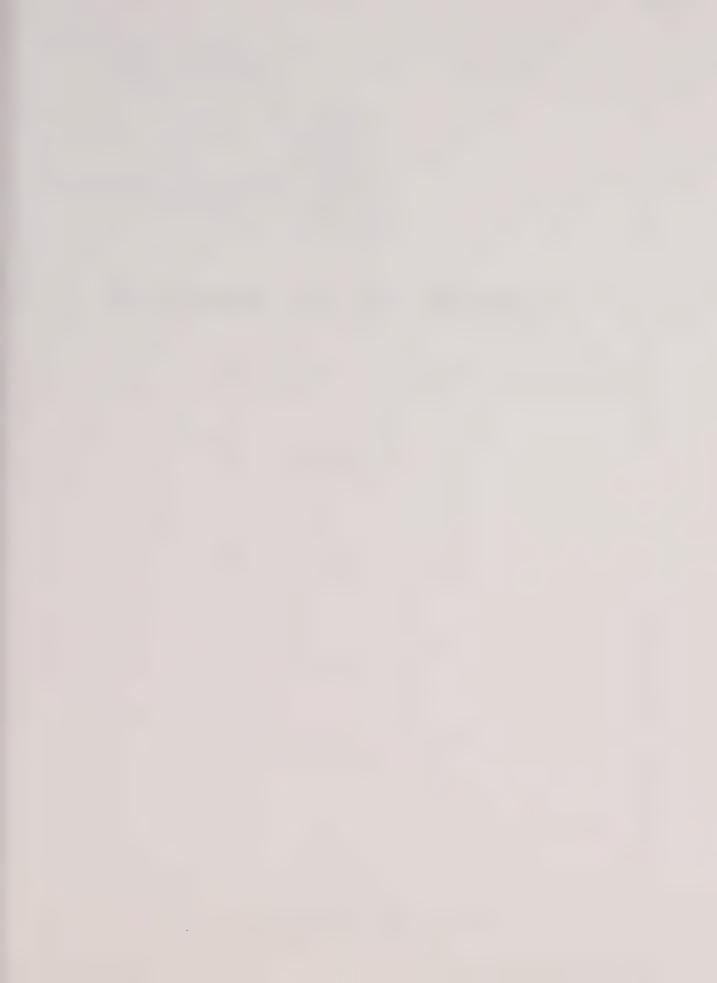
PRIVATE BILLS

3rd R.A. Chap.	05/05/19*	
3rd	05/05/10 05/05/19*	
Report Amend	0 observations	
Report	05/05/05	1
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2nd	05/03/23	05/04/19
1st	05/02/10	05/02/17
Title	An Act to amend the Act of incorporation of The General Synod of the Anglican Church of Canada (Sen. Rompkey, P.C.)	S-27 An Act respecting Scouts Canada (Sen. Di Nino)
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	Hon. Lillian Eva Dyck
Organization for Security and Co-operation in Europe	Referred to Committee
Fourteenth Parliamentary Assembly.	
Hon. Jerahmiel S. Grafstein	Civil Marriage Bill (Bill C-38)
	Second Reading.
Tax Burden on Young Professionals	Hon. Sharon Carstairs
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	Hon. Marcel Prud'homme
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Monday, July 18, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193

THE SENATE

Monday, July 18, 2005

The Senate met at 6 p.m., the Speaker in the Chair.

Prayers.

[Translation]

LONDON BOMBINGS

SILENT TRIBUTE TO VICTIMS

The Hon. the Speaker: Honourable senators, before beginning our deliberations this evening, I would ask you to rise and observe one minute of silence with me in tribute to the victims of the London bombings.

Honourable senators then stood in silent tribute.

[English]

SENATORS' STATEMENTS

LONDON BOMBINGS

Hon. Jack Austin (Leader of the Government): Honourable senators, July 7, 2005, will be remembered in the same way that September 11, 2001, is remembered. While the manner in which the terrorist destruction was conducted was different, the purpose was identical, and provides a stark reminder to Canadians that we are not a safe village in the global community.

What is the purpose behind a terrorist act? Vladimir Lenin once said that the purpose of terrorism is to terrorize, to malign the moral authority of government to govern, and to destroy the will of the people to resist. Joseph Conrad, the great Victorian novelist, wrote that to be effective in its purpose, a terrorist act "must be purely destructive ... beyond the faintest suspicion of any other object... Madness alone is truly terrifying, inasmuch as you cannot placate it either by threats, persuasions or bribes."

The explosions that took place in the underground transportation system and on a London bus are meant to threaten our civilized way of life. They are meant to destroy our tolerant and accommodative society and to return us to the ethnic, religious and national conflicts of the past. That way we will not go. The basis of Western democracy and of a society that believes in the rule of law, in a Charter of Rights and Freedoms and in behavioural norms of tolerance and compassion towards one another is not a fragile society, certainly not in Great Britain nor in Canada, in the United States or anywhere in Western democracies. We will endure whatever comes.

In 1941, in an address to the Canadian Parliament, the Right Honourable Winston Churchill, then Prime Minister of Great Britain, responded to another peddler of fear and hatred who said that he would ring England's neck like a chicken. Churchill's reply was, "Some chicken; some neck."

Canadians have been warned. We may well be tested in the months ahead because we have chosen to be a part of the world community active against Islamic terrorism. We have chosen to defend our freedoms and our way of life against those who hate us for our values and who believe it is their way or no way. We know what we have to do, and we will do it.

In memory of 7/7, our deepest sympathies go to those whose lives have been saddened by this tragedy. We know we are all on the front line.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, as indicated by the Leader of the Government in the Senate, last week in London the world witnessed senseless tragedy and loss of life. Once again, Londoners were faced with an invisible and elusive enemy that struck from the shadows but, once again, Londoners reminded us that free men and women cannot, and will not, be deterred from democracy and freedom by the acts of anarchists and terrorists.

What have we learned from the attacks in London and those in New York on September 11, 2001? What has the Senate of Canada done to ensure that, should Canada face this foe, our nation is prepared to deal with any emergency? As honourable senators are aware, the Standing Senate Committee on National Security and Defence has been very active, hearing from many witnesses across the country. The committee has been diligent in pointing out security weaknesses at our airports, along our borders and in our ports. This ongoing study is helping to ensure that Canadians and the government are fully aware of the problems so that corrective action can be taken.

• (1810)

We must also be concerned when testimony by witnesses such as those who appeared before the Special Senate Committee on the Anti-terrorism Act informed us that RCMP detachments are being shut down in border towns; that Canadian border service agents do not report illegal border crossings; that Canada plans to deport suspected terrorists back to countries where they may use their in-depth knowledge of Canada to plan attacks against our country and others; that our private sector utilities are underprotected; and that our responsible federal and provincial ministers have met only once in 11 years.

Representatives from law enforcement agencies appearing before the special Senate committee were unable to clarify the chain of command among them in the event of a terrorist strike on Canada. It is not clear if the federal Minister of Public Safety and Emergency Preparedness organizes the responses, whether the RCMP fulfils a management function, or whether there exists a coordinating body, such as was the case two weeks ago when the London Resilience Forum executed their well-planned and well-practiced, coordinated, multi-tiered response to the bombings in London.

The London Resilience Forum presents a stark contrast as it represents a strategic partnership formed in the wake of 9/11, which consists of both public and private stakeholders and includes senior civil servants, experts from the emergency services, transport operators, utilities and all levels of government. There is no clear evidence that Canada has any such coordinated reaction plan or partnership among first responders and stakeholders.

That said, honourable senators, Canadians and the ministers responsible may rest assured that this house will take whatever action is possible within our constitutional authority to see that Canada has in place the capacity to deal with any acts of violence or terrorism, and that Canada too will respond with the same fortitude and resilience that Londoners have displayed throughout modern times and most recently on July 7, 2005.

[Translation]

THE LATE GUY MAUFFETTE

Hon. Lucie Pépin: Honourable senators, I wish to draw the attention of the Senate to the loss of one of our poets, Mr. Guy Mauffette. This bright light of Quebec culture quietly took his leave on June 30. Born and raised in Montreal, Guy Mauffette's unparalleled skills as a communicator were soon apparent. A teenage actor, he became a pioneer of French-language radio at the age of 21. He invented radio broadcasting in Quebec. During the 1960s, at a time when listeners were used to hearing prepared texts read on air, he broke with tradition to change the sound of radio, leaving his mark on the medium through his improvisational skills and magical presence.

He hosted a number of shows on Radio-Canada that shaped a generation of Quebecers, a generation to which I belong. There was nothing I would have rather done than listened to the extremely popular show *Le cabaret du soir qui penche*, which he hosted on Sunday evenings from 1960 to 1973. He had an unforgettable gift for using humour to engage and captivate his audience. His sincerity was such that, as you listened, you felt a personal connection.

The serial drama was another area in which he excelled and to whose development he contributed, giving a number of francophone authors the opportunity to be heard. We still remember the famous play *Un homme et son péché*, which he adapted for radio.

Guy Mauffette took part in various television and film productions, playing a number of roles. He was one of the young leading lights of Quebec cinema in *Les lumières de ma ville*. In addition, he lent his voice to numerous documentaries and frequently appeared on stage in Quebec City and Chicago, as a result of his excellent English.

We owe him for helping to give Quebec music its identity, by popularizing singers such as Michel Legrand and Léo Ferré, and by giving numerous Quebec artists the opportunity to be heard—including Félix Leclerc.

In addition to being a man of words, which he could wield like no other, Guy Mauffette turned his creativity and improvisational skills to writing. Not only does he leave us with collective works that fall somewhere between conversation and poetry, he also leaves us with children's books in which his intelligence and lucidity shine from the very first page.

I want to pay tribute to this great poet, this Canadian of many talents, this Grand Officier of the Ordre national du Québec, who motivated us to strive to be distinct.

[English]

NOVA SCOTIA

LIEUTENANT-GOVERNOR'S MASTERWORKS AWARD

Hon. Donald H. Oliver: Honourable senators, I have had a long-standing interest in promoting both the visual and performing arts in Nova Scotia. Naturally, I was delighted to learn recently that our Lieutenant-Governor, the Honourable Myra Freeman, has announced a new \$25,000 award to recognize significant creations by artists in Nova Scotia.

I spoke with her yesterday and she explained that the Masterworks Award will recognize the excellence of Nova Scotia artists or group of artists in any medium from dance to film. The first Masterworks Award will be presented in 2006. The Lieutenant-Governor told me that the award is completely unique in Canada because it presents an opportunity for emerging artists, as well as lifetime achieving artists, to create works of art that will have a lifetime impact on Nova Scotians. The award can be given to individuals or groups working in music, dance, theatre, architecture, film or any branch of the arts.

Works by the five short-listed finalists will be showcased for four months leading up to the announcement of the winner. The Lieutenant-Governor hopes that this showcasing will generate dialogue and discussion throughout the province, raising awareness and concern for Nova Scotia's arts community.

The award will be managed by an advisory council chaired by the former Chief Justice of Nova Scotia, the Honourable Constance Glube. Other members of the advisory council, who collaborated over the last six months to develop the basic structure for the award, include philanthropists Joan and Jack Craig, Peter Greenhalgh, President of the Nova Scotia College of Art and Design, Sarah Dennis, the Vice-President and Director of The Halifax Chronicle-Herald, and Adrian Hoffman, host of Musically Yours on CBC Radio.

Honourable senators, I wish to conclude with a few words about the Honourable Myra Freeman, who will soon be leaving her position as Nova Scotia's Lieutenant-Governor after completing a highly successful five-year term. Myra Freeman has been an outstanding Lieutenant-Governor since 2000. She has hosted or attended, on average, approximately 800 events per year. She is a patron of over 95 organizations in Nova Scotia. She has also raised attendance at Government House, the official residence of the Lieutenant-Governor, in each of her five years in office.

Now, as her term expires as the Queen's representative in Nova Scotia, she has created an award to recognize the talented artists from Nova Scotia, and to help create a dialogue about the contemporary arts. I salute her.

AGRICULTURE AND AGRI-FOOD

UNITED STATES— OPENING OF BORDER TO LIVE CATTLE

Hon. Terry M. Mercer: Honourable senators, the day when the Canada-U.S. border will be open to live cattle has been a long time coming but, indeed, is welcome news to our agriculture industry and all Canadians. Since the first case of bovine spongiform encephalopathy was discovered in May 2003, our agriculture industry has suffered great losses at the expense of the closed border.

While the federal government responded to this closure with increased vigilance to protect our farmers, some said it was not enough. Some said that the extra funding was misdirected. However, honourable senators, during the past two years, farmers have remained positive in the eyes of this disaster. The government continued its efforts to have the border reopened by stressing the safety of our cattle industry: safety based on science, not on conjecture and irrational fear.

The cattle industry is of mutual benefit for Canadians and for our United States friends. Advocates of both sides of the border have worked hard, from government to farmers, to reach this day when the border would open to trade between both partners of live cattle.

Honourable senators, I applaud Minister Andy Mitchell, the federal Department of Agriculture and Agri-Food, the Standing Senate Committee on Agriculture and Forestry, farmers on both sides of the border and all those connected with the effort to reach today's monumental result of an open and fair trade of cattle across our borders.

Senator St. Germain: What about the Tories?

[Translation]

ROUTINE PROCEEDINGS

CRIMINAL CODE CANADA EVIDENCE ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Lise Bacon, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Monday, July 18, 2005

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

ELEVENTH REPORT

Your Committee, to which was referred Bill C-2, An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act,

has, in obedience to the Order of Reference of Monday, June 20, 2005, examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

LISE BACON Chair

(For text of observations, see today's Journals of the Senate, p. 1099.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1820)

CIVIL MARRIAGE BILL

REPORT OF COMMITTEE

Hon. Lise Bacon, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Monday, July 18, 2005

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWELFTH REPORT

Your Committee, to which was referred Bill C-38, An Act respecting certain aspects of legal capacity for marriage for civil purposes, has, in obedience to the Order of Reference of Wednesday, July 6, 2005, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LISE BACON Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

[English]

Hon. Serge Joyal: I move that Bill C-38 be read the third time now.

The Hon. the Speaker: Is leave granted?

Some Hon, Senators: No.

[Translation]

The Hon. the Speaker: Honourable senators, the motion was negatived. When shall this bill be read the third time?

On motion of Senator Joyal, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[English]

DEPARTMENT OF HUMAN RESOURCES AND SKILLS DEVELOPMENT BILL

REPORT OF COMMITTEE

Hon. Wilbert J. Keon, Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Monday, July 18, 2005

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

TWELFTH REPORT

Your Committee, to which was referred Bill C-23, An Act to establish the Department of Human Resources and Skills Development and to amend and repeal certain related Acts has, in obedience to the Order of Reference of Tuesday, June 14, 2005, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

WILBERT J. KEON Deputy Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

DEPARTMENT OF SOCIAL DEVELOPMENT BILL

REPORT OF COMMITTEE

Hon. Wilbert J. Keon, Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Monday, July 18, 2005

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

THIRTEENTH REPORT

Your Committee, to which was referred Bill C-22, An Act to establish the Department of Social Development and to amend and repeal certain related Acts has, in obedience to the Order of Reference of Tuesday, June 21, 2005, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

WILBERT J. KEON Deputy Chair The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

BILL TO AUTHORIZE MINISTER OF FINANCE TO MAKE CERTAIN PAYMENTS

REPORT OF COMMITTEE

Hon. Donald H. Oliver, Chair of the Standing Senate Committee on National Finance, presented the following report:

Monday, July 18, 2005

The Standing Senate Committee on National Finance has the honour to present its

SIXTEENTH REPORT

Your Committee, to which was referred Bill C-48, An Act to authorize the Minister of Finance to make certain payments, has in obedience to the Order of Reference of Wednesday, July 6, 2005, examined the said Bill and now reports the same without amendment, but with observations, which are appended to this report.

Respectfully submitted,

DONALD H. OLIVER Chair

(For text of observations, see today's Journals of the Senate, Appendix, p. 1106.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Art Eggleton: Honourable senators, I wish to suggest multiple options. I could say "now;" I could say "later this day;" or I could, as is traditional, move that the bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

On motion of Senator Eggleton, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, pursuant to rule 95(3)(a), the Standing Senate Committee on Human Rights be authorized to meet on Monday, September 19, 2005; Monday September 26, 2005; and Monday October 3, 2005, even though the Senate may then be adjourned for a period exceeding one week.

SAME-SEX MARRIAGE

PRESENTATION OF PETITION

Hon. Gerry St. Germain: Honourable senators, I have a petition signed by 324 citizens that was presented to me by Stand Together Canada for tabling this evening. This is a petition to protect children's entitlements, and it reads as follows:

Whereas children are most advantaged when they grow up in a stable family environment with both biological parents, and

Whereas marriage between a man and a woman is the unique institution that fosters such families and secures to children a parent of each sex, and

Whereas redefining marriage to be the union of two persons

- a) Disenfranchises children of their right to a parent of each sex, and
- b) Recasts marriage as a relationship between adults rather than an institution that meets the stability needs of the rising generation, and
- c) Prevents government from acknowledging and promoting the stable, biological family arising out of the marriage of a man and a woman that is in children's best interests.

Therefore, we, the undersigned Canadians, earnestly petition Parliament to do all in its power to restore in Canada the definition of marriage that serves the needs and protects the entitlements of children.

QUESTION PERIOD

FINANCE

CHANGES TO BUDGET 2005— TIMELINE FOR TAKING EFFECT

Hon. Donald H. Oliver: Honourable senators, my question is directed to the Leader of the Government in the Senate and relates to testimony of the Parliamentary Secretary to the Minister of Finance, John McKay, before our Standing Senate Committee on National Finance.

• (1830)

In his testimony, the parliamentary secretary told committee members that the government will not know its 2005-06 surplus until August or September 2006. Not a penny from the NDP-negotiated budget can be spent until then as it is conditional on the government generating a \$2-billion surplus.

Mr. MacKay said:

We will not know what the surplus is in 2005-06 until September of 2006. I do not want to be too crass about it, but if I was in a department anticipating receiving money, I would not be booking this money until I knew that surplus was in place. Then presumably there would be an allocation, and by then, presumably, the department will have worked up plans as to how to deal with that particular money.

Apparently, honourable senators, the NDP was not informed during negotiations that the money contained in Bill C-48 would not flow until September 2006, at the absolute earliest, if at all. In a letter sent to my office dated July 13, Judy Wasylycia-Leis, the NDP finance critic stated, among other things:

It is my understanding... that it is indeed within the government's authority to dispense funds designated in Bill C-48 before the final 2005-06 public accounts have been issued. That was the position put forward by the government during negotiations with the New Democratic Party, and the government's own briefing materials provided to members of the House of Commons Standing Committee on Finance.

Honourable senators, a headline in Saturday's Ottawa Citizen read as follows:

We were "double-crossed" by Liberals, NDP alleges: PM accused of delaying budget spending to look good during election.

My question for the Leader of the Government in the Senate is this: Was the government double-crossing the leader of the NDP — to use the language of the Ottawa newspapers — and deceiving Canadians when it negotiated \$4.5 billion in spending measures in exchange for New Democratic Party support of Bill C-43, and was the timing of payments of those funds discussed at any time during the negotiations?

Hon. Jack Austin (Leader of the Government): Honourable senators, I could not help but listen to the question with a rising assumption that it is based on a temptation for Senator Oliver to support Bill C-48; otherwise, the question for him would be moot.

Senator Stratton: And the point is?

Senator Austin: The point is that I am encouraging him to nod in my direction.

The answer to the specific question is no, the NDP were not deceived. The government was very clear in what it was undertaking to do. The primary undertaking that was on the table at all times was that the government would not incur a deficit in fiscal 2006-07 or fiscal 2007-08. How could that be misunderstood?

Senator Oliver: Honourable senators, Mr. Charles-Antoine St-Jean, the Comptroller General of Canada, told our committee:

Prudent financial management...

- involves -

... disbursing funds only when the need comes in, as close as the need comes in.

With respect to Bill C-48:

... the approach would be to commit the funds to make the liability on the books of the Government of Canada, but the actual disbursement could be over a year, two years, three years, depending on the need of the organization.

Honourable senators, add three years to the end of fiscal 2006-07 and you are at 2010. Can the Leader of the Government in the Senate confirm that some of the funds will not be disbursed until the end of the decade and beyond?

Senator Austin: Honourable senators, it is my understanding that these funds, if authorized by Parliament, will be disbursed only at such time as the surplus for the fiscal years 2006-07 and 2007-08, respectively, is known.

Bill C-48 is clear; it authorizes the Minister of Finance to make payments in four agreed-upon areas, totalling no more than \$4.5 billion, from any surplus above \$2 billion in 2005-06 and 2006-07. The committee of which the Honourable Senator Oliver is chair heard this evidence. The honourable senator knows the objectives for which spending is designed in Bill C-48.

As the National Finance Committee heard in evidence, the final fiscal outcome for these two years will not be known until the fall of 2006 and the fall of 2007, respectively. This not only implies, but also clearly states that no payments with respect to Bill C-48 can be made until those knowledge points have been achieved.

The government has been steadfast in its commitment not to incur a deficit in those two years. As the committee heard, the government also intends to reduce the debt. That is why it is patently clear that the payments are conditional on there being a surplus of \$2 billion in each of the two years mentioned.

As honourable senators will know, the government may choose to advance some of the payments if it feels confident that the final surplus in these two years will be in excess of the \$2 billion earmarked for debt reduction. That will be known when the Minister of Finance presents his regular updates to Parliament, either through a full update or through a budget.

Honourable senators, the system for making payments is quite clear. If there is a different agenda, which is believed by others to be the case, I believe that they cannot have understood how committed this government is to ensuring that we maintain budgets in surplus and never go into deficit again.

AGRICULTURE AND AGRI-FOOD

UNITED STATES—BOVINE SPONGIFORM ENCEPHALOPATHY—OPENING OF BORDER TO LIVE CATTLE—MONTANA COURT CASE

Hon. Gerry St. Germain: Honourable senators, my question is for the Leader of the Government in the Senate and it relates to trade between our country and our neighbours to the south.

Senator Mercer just spoke of the great job that the Minister of Agriculture is alleged to have performed. My understanding is that the Government of the United States sought to appeal the injunction of the Montana judge; am I correct in that assumption or observation?

There is a July 27 date that sits on the horizon, as far as what will transpire in Montana. Can the Leader of the Government in the Senate indicate to us, the ranch communities and the cattle industry in general, what the government expects will happen on July 27 in that regard? I realize that the minister cannot predict what a judge will do, but is there a backup plan in place? Theoretically, the border could be shut down again, if I am correct.

Hon. Jack Austin (Leader of the Government): Honourable senators, I think the Government of Canada, particularly the Minister of Agriculture, the Honourable Andy Mitchell, does deserve due credit for the work that has been done.

Some Hon. Senators: Hear, hear!

Senator Austin: The result has been a decision of the Ninth Circuit Court of Appeals, which overturned the temporary injunction issued on March 2, 2005, by the U.S. District Court in Montana.

In negotiation between the Minister of Agriculture and officials in the United States who represent the United States Department of Agriculture, it was agreed that the United States Department of Agriculture had the responsibility to implement a system of science-based analysis of risk to the United States. This government supported the United States Department of Agriculture with facts, science and the position of the Canadian cattle industry.

• (1840)

It is the U.S. Department of Agriculture that succeeded in overturning the Montana U.S. District Court decision by Judge Cebull, which issued the temporary injunction. The Ninth Circuit Court of Appeals was quite aggressive in finding no basis in fact for the issue of the temporary injunction, and certainly it is the view of government officials here in Canada that the Ninth Circuit Court of Appeals laid down significant tests for application in any further proceedings.

Senator St. Germain correctly stated that the argument on the merits will now proceed on July 27 before the District Court of Montana. Justice Cebull is presiding, and he is the person who issued the temporary injunction that was set aside. Again, as Senator St. Germain said, predicting a judicial decision is folly, but I know that Agriculture Canada and the United States Department of Agriculture are confident that they have tested the facts in the Court of Appeals and that there are no facts that would justify any further order that would close the border to Canadian cattle 30 months and younger, or dressed boneless cuts which now have access to the United States market.

The District Court of Montana, however, will be holding a trial of fact, as Senator St. Germain knows well. The application for a temporary injunction essentially requires only that a prima facie case be made. On July 27, there will be a trial of fact in which,

again, the United States Department of Agriculture and its Department of Justice will be present to argue the interests of the United States and the law of the United States, They will argue against any further finding that would bar Canadian cattle from the United States market.

I hope that answer is of assistance.

Senator St. Germain: I thank the leader for his response. My concern is that he mentions the Government of Canada. They are not in a position to take an intervenor position, I gather. What would the Government of Canada's contribution be to this process, if any? Certain members of Parliament and senators have taken an intervenor position on the case. Could the Leader of the Government clarify for the record exactly what the Canadian government is doing besides speaking to the U.S. Department of Agriculture and the Secretary of Agriculture?

Senator Austin: Honourable senators, I have responded to these questions before, and I am happy to do so again.

There being an agreement on the facts and on the policy of the United States Department of Agriculture with respect to access to U.S. markets by Canadian cattle, it was the position of the Minister of Agriculture of Canada that the best position Canada could take would be to facilitate and support the U.S. Department of Agriculture in these legal processes. We are discussing, after all, a judicial process in the United States and an interpretation of the law of the United States based on the facts that exist in this particular litigation.

The Canadian government has taken every possible step to provide facts to show the safety of the Canadian herd, to show that testing in Canada for BSE is the equivalent of or better than that in the United States, and to show that there is no risk to the health of the United States population in receiving Canadian beef.

I believe that we, the Government of Canada, have been of important assistance to the United States Department of Agriculture. However, it is the position of the United States Department of Agriculture that is being presented to the courts. We are speaking about litigation amongst interests in the United States. There are, as Senator St. Germain knows, many other U.S. intervenors in this case, particularly those in the U.S. meatpacking industry and distribution industries in the United States who have been harmed by Judge Cebull's decision to issue a temporary injunction.

Senator St. Germain: That is correct. To be fair, the leader has previously outlined the description of the process, but it is important that we have it on the record so that Canadian farmers, who do pick up what is happening in this place, are aware.

INTERNATIONAL TRADE

UNITED STATES—SOFTWOOD LUMBER AGREEMENT—INITIATION OF TALKS

Hon. Gerry St. Germain: On another trade issue, that of softwood lumber, I have been inundated with letters from the remanufacturing sector in British Columbia, which feels that it should be exempt from any future tariffs in regard to softwood

lumber. I do not know if the Office of the Leader of the Government has received similar letters, but perhaps he could comment. It is my understanding that softwood lumber negotiations are being reinstituted with the United States and that the new Minister of Forests in British Columbia is quite skeptical as to whether there will be any positive results. This remanufacturing issue is first and foremost in the minds of the remanufacturing industry in British Columbia.

Hon. Jack Austin (Leader of the Government): Honourable senators, again I thank Senator St. Germain for this important question. Talks underway this week between Canadian industry and U.S. industry representatives are also being attended by officials of the two governments. I call them talks because the processes this week have not been designated as negotiations. They are essentially a return to an attempt to define terms on which an actual negotiation might proceed.

With respect to the remanufacturing industry, I want to go a little further than Senator St. Germain has gone and say that there has never been a case made by the United States with respect to that industry. This value-added industry is part of our manufacturing trade and should not have been acted against. The Government of Canada and the industry take that position with respect to remanufacturing and hope that the justice of their position will be recognized.

[Translation]

NATIONAL DEFENCE

COMMENTS BY CHIEF OF DEFENCE STAFF ON POSSIBLE TERRORIST ATTACKS

Hon. Marcel Prud'homme: According to *La Presse*, under the headline "Terrorism lies in wait for us", the Senate apparently sent our colleague and friend Senator Kenny to London to draw lessons from the July 7 attacks.

The Toronto Star reported that Chief of Defence Staff Hillier:

[...] had blunt words on terror.

The National Post reported:

Prepare for casualties, the Colonel says.

Am I to understand that our Armed Forces and other leaders are basically prepared to point out, in advance, the locations in Canada where there may be weaknesses?

I have confidence in our Armed Forces — unlike many of my colleagues, I served as a military police cadet officer at CFB Shilo when I was a student in the Canadian Forces — but since when must we listen to what high ranking officers have to say to the public? I thought this was a political responsibility.

• (1850)

It is up to the political leaders to decide where and when to send troops. Military personnel possess the necessary discipline to fulfill their duties or to inform their political leaders that what they are being asked to do is impossible because of insufficient personnel or equipment.

I find the tone of these statements very alarming and the statements themselves dangerous, because in actual fact they ought to come from either the Prime Minister or the Minister of National Defence, who has preferred not to comment, which I find very prudent of him. Are these dangerous statements, which are alarming the public needlessly, absolutely necessary?

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, the question of the honourable senator comes in two parts. The first was a reference to statements made by Senator Kenny, Chair of the Standing Senate Committee on National Security and Defence, who is free to make whatever public statements he wishes. He does not represent the government in what he says. I am sure his statements will be taken on their merits.

With respect to the statement of the Chief of Defence Staff, Gen. Rick Hillier, I could come at his role in quite a different way from that of Senator Prud'homme. He is the head of Canada's Armed Forces, that is, the operating head. Of course, the commander-in-chief is the Governor General, while the political head is the Minister of National Defence.

Gen. Hillier has an enormous responsibility in the organizational and operational role of our military forces. The political decision has been made by the government to put Canadian troops in harm's way in Afghanistan, in particular in the rather difficult area of Kandahar. Gen. Hillier is not making policy; he is following it. The policy has been made by the Government of Canada in our role with our allies to deal with terrorism and to deal, in particular, with our commitments to the North Atlantic Treaty Organisation to be in Afghanistan and to support the NATO operation against terrorism in Afghanistan. Those were political commitments made by the Government of Canada. Carrying out those political commitments is the responsibility of the Canadian Forces.

As Gen. Hillier accurately said, in my opinion, Canadian Forces are not just another department of the Government of Canada. They provide a special role in the defence of Canada. It is special, in part, because these men and women put themselves in harm's way as a major criteria of their profession, which is the defence of Canadian security. In most other departments, that is not the case.

Honourable senators, I believe it is perfectly appropriate for Gen. Hillier to tell Canadians about the potential sacrifice of lives that may take place as a result of the staffing of Kandahar under our NATO responsibilities and obligations.

The failure to advise Canadians in advance of the onerous duties that Canadian Forces are undertaking would be an omission amounting to a deception of the risk that is being assumed. I do not think any of us in this chamber, however, fail to appreciate what our Canadian Forces risk in terms of personnel by these highly significant responsibilities in Afghanistan.

We are a member of an alliance against terrorism. We have undertaken this role. I believe Gen. Hillier is correctly stating to his forces, to his people, and to Canadians generally, the seriousness, the risk and the importance of the role.

[Translation]

Senator Prud'homme: This is the best debate we could possibly have. I think it would be more appropriate for Senator Kenny, the Chair of the National Defence and Security Committee, to make such statements, since you and I will never be capable of doing so.

I find it totally inappropriate for these public statements to come from the Chief of Defence Staff. I admire our Armed Forces. The government has disbanded one of the best military outfits in Edmonton because of the misdeeds of a few.

You will certainly recall what happened at that time. Just ask military personnel if they have much respect for politics. I repeat, statements of a political nature are the responsibility of the minister. I find it bizarre, moreover, that neither the minister nor representatives of his department are making any political comments and that they are letting these be made by someone who has to follow the government's orders.

When the government decides to get involved politically, that is when our troops have to follow the political orders they receive, not the other way around. This is certainly a substantive debate, and one we will, thank goodness, likely have an opportunity to revisit this week.

Mr. Minister, there is a wide divergence in opinions on this matter between military discipline and political responsibility. You and I differ greatly on this, which is all right and good, and what democracy is all about, but I could never follow you along this path.

[English]

Senator Austin: Honourable senators, I am obliged to make a further comment to the statement that Senator Prud'homme has just made. I agree with him: we have a fundamental difference in approach. I have tried carefully to make clear that the politics of the issue, that is, the political decision to be a part of NATO and the political decision to accept responsibilities to fight terrorism in Afghanistan, are political decisions that have been made by the Government of Canada.

The Canadian Forces under Gen. Hillier are carrying out the assigned mission. It is fair comment on his part to tell Canadians what the costs may be. He does so, I am sure, with the agreement of the Minister of National Defence.

VETERANS AFFAIRS

DENIAL OF BENEFITS TO FORMER JTF2 SOLDIER

Hon. J. Michael Forrestall: Honourable senators, I wish to express my support for the minister's previous comments. I have always believed that gentleman who have been awarded three and four stars should be allowed, indeed encouraged, to speak out publicly under certain circumstances.

My question has to do with a question I raised even before Senator Eggleton's days as Minister of National Defence. It has to do with insurance, benefits and the protection of members of the Canadian Forces who, one way or another, are crippled or badly banged up overseas while on duty.

We have read in the newspaper that at least one member of the Joint Task Force Two has had called into question his entitlement to benefits as a result of injuries. He is disqualified, presumably because he does not meet the criteria of the insurance claim in that he is not allowed to disclose the nature of his injury, how it occurred, where it occurred, when it occurred, or under what circumstances.

• (1900)

I have asked repeatedly for assurances and mistakenly have been given those assurances. Even worse, I have believed those assurances. Now I no longer do.

I am asking the minister if he will find out from the Department of National Defence whoever else may or may not be involved and what other pitfalls lie in front of our troops as we prepare to send them to Kandahar. It will not be any picnic for them. Will they be able to come home and receive every benefit to which they are entitled?

Hon. Jack Austin (Leader of the Government): Honourable senators, in answer to Senator Forrestall, I want to say that I certainly hope so and expect so. I have heard a report of the difficulties of at least one member of the JTF2 obtaining benefits for injuries alleged to have occurred during military operations and while on active service.

I intend to ask for a report on this subject and not to let it pass by without understanding on my part, at least, the nature of the issue and the reason for the alleged lack of support on the part of the government.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting seven delayed answers to oral questions raised in the Senate.

The first is a response to an oral question raised in the Senate on July 5 by Senator Forrestall regarding the replacement of search and rescue aircraft and the refurbishment of Libyan Air Force G222 planes.

The next delayed answer is in response to a question raised on June 30 by Senator Tkachuk regarding user fees in national parks and national historic sites.

The next delayed answer is in response to a question raised on June 14 by Senator Johnson regarding Devils Lake water diversion.

The next is to an oral question raised on June 30 by Senator Oliver regarding bank mergers and release of guidelines.

The next response is to an oral question raised by Senator Oliver on June 29 regarding reverse mortgages for seniors.

The next response is to an oral question raised by Senator Keon June 29 regarding the decline in medical students from low-income families.

The last response is to an oral question raised in the Senate by Senator Kinsella on June 28 regarding Point Lepreau and comments by Minister Efford.

NATIONAL DEFENCE

SEARCH AND RESCUE—
REPLACEMENT OF FIXED-WING AIRCRAFT—
REFURBISHING OF LIBYAN AIR FORCE G222 PLANES

(Response to question raised by Hon. J. Michael Forrestall on July 5, 2005)

The acquisition of new search and rescue aircraft is a key priority for the Government.

The Government will spend about \$1.3 billion and the Canadian Forces will use these planes for decades. That is why we must make the right decision and select the right aircraft to meet Canada's needs.

National Defence has taken the time necessary to study the new search and rescue aircraft's operational requirements and the procurement strategy in order to ensure that they are in line with the Defence Policy Statement.

National Defence expects to release a request for proposal in the near future.

The aircraft that will replace 6 Buffalo Search and Rescue aircraft and 10 of the older Hercules currently engaged in search and rescue operations will be new, modern and off the shelf Search and Rescue aircraft.

We expect that 15 new aircrafts will be purchased.

THE ENVIRONMENT

PARKS CANADA—USER FEES

(Response to question raised by Hon. David Tkachuk on June 30, 2005)

Many facilities in national parks and national historic sites are between 30-50 years old and have reached the end of their serviceable lives. Presently, one-third of all facilities require rebuilding urgently and another one-third will require this type of investment within the next five years. The associated budget shortfall is \$100 million annually.

Between September 2003 and February 2004, consultations on a comprehensive, four-year user fees proposal were carried out. The proposed fees were based on comparability with fees charged by other parks and tourism organizations in Canada and internationally. There

was wide spread acceptance of the fees provided that the revenues are invested in rebuilding visitor facilities. The alternative would have been to close facilities when they could no longer meet code requirements and withdraw the associated services.

In Budget 2005, additional funding, ramping up to a permanent adjustment of \$75 million per year, was provided to address this shortfall on the understanding that remaining \$25 million per year would be obtained from increases to user fees. Together, the Budget Plan allocation and user fee strategy will help to ensure that high quality facilities and services are available to visitors over the long-term.

The Parliamentary review of the user fee proposal, pursuant to the new User Fee Act, was recently concluded and there were no recommendations to change the proposal. Consequently, it has been approved and implemented.

CANADA-UNITED STATES RELATIONS

NORTH DAKOTA—DEVILS LAKE DIVERSION

(Response to question raised by Hon. Janis G. Johnson on June 14, 2005)

In 2002, the United States offered to support a joint reference on a potential federal outlet proposal at Devils Lake, North Dakota. Canada did not refuse a reference on this matter, but rather indicated that the proposal was premature. It was not appropriate to ask the International Joint Commission (IJC) to determine whether the federal project was compliant with the provisions of the 1909 Boundary Waters Treaty (BWT) when the plan was still at a preliminary stage.

The long-standing practice developed by Canada and the United States has been that domestic processes must be completed before a matter is referred to the IJC. In 2002, the US Army Corps of Engineers had not completed its environmental impact assessment on various options for addressing flooding at Devils Lake.

Moreover, the US Army Corps of Engineers had not even recommended an outlet as the preferred alternative. As our Ambassador at the time correctly pointed out, there was "simply no basis for serious comparison of alternatives to address the reported problems of flooding and their respective degree of compliance with the BWT provisions." In essence, we said to the United States "Not at this time. Finish your environmental assessment, and then it will be appropriate to talk."

The plan originally developed by the US Army Corps of Engineers was substantially different in contrast to the state outlet project currently nearing completion. The North Dakota state project is proceeding without an environmental assessment. While the US Army Corps of Engineers did complete an environmental impact statement (EIS) for the federal proposal, this analysis is no substitute for a rigorous environmental review of the state project given important differences between the two. The state outlet includes only the most minimal — and insufficient — safeguards against biota transfer.

Devils Lake has no natural inlet or outlet meaning that it is isolated from the broader Red River basin, and has been so for approximately the last 1000 years. Critically, in the 1940s, the lake was essentially dry, meaning that all of the larger orders of life in the lake have been introduced by people since that time. Therefore, Canada is deeply concerned about the possible transfer of species foreign to the Red River and Lake Winnipeg.

The science concerning Devils Lake biota is insufficient, a view shared by the US Army Corps of Engineers. The gaps in the science need to be filled in order to: understand what lives in Devils Lake, the full extent of the risk posed, and how best to address that risk. Canada has always been committed to a resolving this matter in a manner that is based on sound science and consistent with the Boundary Waters Treaty.

We do not know at present whether the United States will ultimately agree to a solution that upholds the Treaty. However, we are very encouraged by the engagement of the White House Council on Environmental Quality which is seeking a resolution for the Devils Lake outlet. The Government of Canada, in close cooperation with the Government of Manitoba, continues to pursue this matter vigorously with the goal of finding a solution that protects the environment and is consistent with the Boundary Waters Treaty.

FINANCE

BANK MERGERS-DELAY IN GUIDELINES

(Response to question raised by Hon. Donald H. Oliver on June 30, 2005)

The Minister of Finance has indicated that the government's policy paper on large bank mergers would be released in due course. The process for releasing a policy paper on mergers is independent of the broader Bank Act review.

Given the importance of this issue, the Minister has also indicated that he would like to consult with opposition parties to assess positions and to ensure that a discussion of policy in this area would occur in a constructive environment.

LABOUR AND HOUSING

CANADA MORTGAGE AND HOUSING CORPORATION—REQUEST BY MINISTER FOR STUDY ON REVERSE MORTGAGES

(Response to question raised by Hon. Donald H. Oliver on June 29, 2005)

The Government of Canada, through Canada Mortgage and Housing Corporation (CMHC), is currently exploring the issue of reverse equity mortgages (REM) for seniors.

Income after retirement typically drops. As a result, older homeowners who are unable to afford the same preretirement level of housing consumption may need to sell their home and buy or rent more affordable shelter. The conversion of home equity into cash through REM can be used to hold off that need. REMs can allow seniors to continue living independently in their own homes; they can also reduce the pressure on the market and government to provide alternative accommodation.

Because REM requires the value of the mortgaged home to keep pace with the increase in the mortgage amount, it can carry significant risk. Thus, traditional lenders will not provide REM without some form of insurance against the risk of the outstanding amount of the deferred mortgage exceeding the sale proceeds. There is only one supplier of REM in Canada — Canadian Home Income Plan, a nontraditional lender. In the absence of insurance, this supplier protects itself by limiting the equity conversion ratio to about 40 per cent of market value and by focusing on homes with higher value in centers with a history of rising property prices.

Housing has an important impact on the quality of life of seniors, and adequate, suitable and affordable housing for seniors can play an important role in reducing costs in other areas, in particular health and support services. The Government is committed to providing all Canadians, including seniors, with safe and affordable housing options.

In May 2004, the Task Force on Active Living and Dignity for Seniors tabled a report, Creating A National Seniors Agenda, which put forward a number of recommendations including consideration by CMHC of a REM product.

It should be noted that REM is complex. In addition, refinancing by seniors on a fixed pension (or small or no pension) is a controversial concept, and the special risks involved with REM are an added concern. Hence, counseling is key and inheritance is a consideration.

As indicated by the Minister of Labour and Housing, the government is currently looking at options that would help seniors to continue living independently in their own homes. Preliminary work is underway and CMHC will consult with its partners on this important issue.

HEALTH

DECLINE IN MEDICAL STUDENTS FROM LOW-INCOME FAMILIES

(Response to question raised by Hon. Wilbert J. Keon on June 29, 2005)

The Government of Canada is aware of the impact of rising tuition fees and subsequent debt load on a number of professional programs, including medicine.

Through the Pan-Canadian Health Human Resource Strategy, Health Canada, in partnership with provinces, territories, and health care stakeholders, is working to ensure the right number, mix, and distribution of health care providers across the country. In particular, support has been provided to national professional associations, such as the College of Family Physicians of Canada, to promote interest in and support for family medicine among students.

In addition, the Government of Canada is working with provincial and territorial governments on the September 2004 First Ministers' Meeting commitment to introduce measures to reduce the financial burden on students in specific health education programs in order to promote accessible and affordable post-secondary education for all qualified students.

Budget 2004 announced significant improvements to the Canada Student Loans Program, including:

- Introduction of two new grants: one for first year low-income students and another for disabled students;
- Increased loan limits for the first time in ten years; and
- Extension of eligibility for student loans by reducing expected parental contributions.

These initiatives will commence August 1, 2005.

Medical students, like other Canadian students, will benefit from these measures.

Budget 2004 also included a review of debt management measures to ensure that they accurately reflect the capacity of borrowers to repay their student debt. The Government of Canada is currently working on this review with its provincial and territorial student financial assistance partners. The particular needs of medical students will be given consideration in the context of this review.

NATURAL RESOURCES

NEW BRUNSWICK—FINANCIAL TERMS FOR REFURBISHING POINT LEPREAU NUCLEAR POWER PLANT

(Response to question raised by Hon. Noël A. Kinsella on June 28, 2005)

Minister Efford was speaking strictly for his Department when he commented on his knowledge of the file in the New Brunswick Telegraph.

Natural Resources Canada (NRCan) is only responsible for providing the technical expertise on the nuclear file. In terms of potential federal funding for the refurbishment of provincial nuclear facilities (i.e. Pt. Lepreau) this decision is not the responsibility of the department.

The Government of Canada does not have nor has it ever had a policy for the refurbishment of provincially-run nuclear power plants.

[Translation]

ANSWERS TO ORDER PAPER QUESTIONS TABLED

FOREIGN AFFAIRS—STATUS OF IRAQI NATIONALS OF SADDAM HUSSEIN GOVERNMENT WORKING IN CANADA

Hon. Bill Rompkey (Deputy Leader of the Government) tabled the answer to Question No. 12 on the Order Paper—by Senator Downe.

TREASURY BOARD—SERVICE CANADA INITIATIVE

Hon. Bill Rompkey (Deputy Leader of the Government) tabled the answer to Question No. 14 on the Order Paper—by Senator Downe.

[English]

SAME-SEX MARRIAGE

PRESENTATION OF PETITION—CONTRAVENTION OF RULES OF THE SENATE

The Hon. the Speaker: Honourable senators, before going to Orders of the Day, I advise that the table has brought to my attention that the petition tabled earlier by Senator St. Germain does not strictly comply with our rules, which provide in rule 69 that a petition shall be clearly written and signed by the petitioner.

In the case of this petition, it is one that the senator has received by email and contains the email addresses of the petitioners. Therefore, for us to receive such a petition would require leave. I now recognize Senator St. Germain to request that leave if he wishes.

Hon. Gerry St. Germain: I do request leave, honourable senators. I was unaware of the circumstances around that rule. My office staff advised me that they had checked with someone, but I do not know who they checked with.

Hon. Bill Rompkey (Deputy Leader of the Government): This causes a difficulty, honourable senators, because the rules, as His Honour has said, are clear. There appears to be a departure from the rules. I wonder if Senator St. Germain would agree not to proceed today, but to let us give this matter further consideration.

Senator St. Germain: Agreed.

The Hon. the Speaker: Leave is not granted at the present time, and I will leave it to the parties to discuss further action.

ORDERS OF THE DAY

CRIMINAL CODE CULTURAL PROPERTY EXPORT AND IMPORT ACT

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Baker, P.C., seconded by the Honourable Senator Eggleton, P.C., for the third reading of Bill S-37, to amend the Criminal Code and the Cultural Property Export and Import Act.

Some Hon. Senators: Question!

The Hon. the Speaker: I hear honourable senators asking for the question, and I see no senator rising to participate in the debate. It is your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

SPIRIT DRINKS TRADE BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Cowan, for the third reading of Bill S-38, respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign countries, as amended.

Some Hon. Senators: Question!

The Hon. the Speaker: I hear a request that the question be put. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read the third time and passed.

LEGAL AND CONSTITUTIONAL AFFAIRS NATIONAL FINANCE

MOTION TO AUTHORIZE COMMITTEES TO MEET DURING ADJOURNMENT OF THE SENATE WITHDRAWN

That the Standing Senate Committees on Legal and Constitutional Affairs, and National Finance, be empowered, in accordance with rule 95(3), to sit during the period of July 8 to July 15, 2005 inclusive, even though the Senate may then be adjourned for a period exceeding one week; and

That these committees be authorized to meet at any time during this period.

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, this motion has now been overtaken by events, so it is null and void. I ask leave to withdraw it.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion withdrawn.

[Translation]

PERSONAL WATERCRAFT BILL

THIRD READING-DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Andreychuk, for the third reading of Bill S-12, concerning personal watercraft in navigable waters.—(Honourable Senator Lavigne)

Hon. Madeleine Plamondon: Honourable senators, I would like to take the adjournment of the debate.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Plamondon, debate adjourned.

• (1910)

[English]

CANADA TRANSPORTATION ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Corbin, for the second reading of Bill S-6, to amend the Canada Transportation Act (running rights for carriage of grain).—(Honourable Senator Kinsella)

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I rise to continue my intervention on Bill S-6 and say to the sponsor of the bill that I appreciate his patience. We had a number of other items that we were researching.

To remind honourable senators, Senator Banks sponsored this bill. The bill amends subsection 93(2) and section 138 of the Canada Transportation Act to give the Minister of Transport, in consultation with the Minister of the Canadian Wheat Board, the power to grant expanded running rights to non-class 1, or short-line rail carriers, for the carriage or transportation of grain. It also imposes certain conditions respecting these rights and allows for the payment of compensation to class 1 railway companies when

their properties and facilities are used by non-class 1, or short-line carriers. If the railway companies cannot agree on the amount of compensation, then the Minister of Transport, with the assistance of the Canadian Transportation Agency, will determine the amount.

By way of background, as this bill relates more to the movement of grain and affects the grain industry and the rail transportation system that helps move its products to market, one might find it at least of passing curiosity that a senator from Atlantic Canada would have an interest. Of course, if that grain does not move, we do not get grain in Atlantic Canada. Canadians in all parts of the country have a direct interest in an effective and efficient rail transportation system that moves grain.

Both in historic and current times, Canada's grain handling and transportation system has had to evolve with changing economic realities on an ongoing basis. In this regard, Parliament and government has played a major role on a number of different fronts, including the regulation of railway freight rates; investing in rail cars and branch line rehabilitation; single-desk marketing of oats, wheat and barley; overseeing the processes by which investments are made in port terminals and seaways; working on the allocation of rail cars; dealing with issues related to branch lines; and so many other matters.

The world of grain handling and transportation is very much a business that has to adapt to changing market realities in a very competitive global economy. Many of us from Atlantic Canada recall the days of seeing grain elevators in the ports of Halifax and St. John where Canadian grain, which had been brought in by the railway system, was stored to be loaded on to ships. Times have changed, however. If one goes to these ports, one no longer sees those elevators there. We understand that there are changing realities and that this industry has had to face these realities. In so doing, the role of government must be a very proactive one. It must help maximize the efficient, effective and low-cost transportation and handling of this product, as other products. Canada's entire grain industry, from exporters, grain companies, farmers, processors and consumers expect this. Indeed, the efficiency of this industry, which annually exports 30 milliontonnes of grain valued at \$6 billion, has implications for the entire Canadian economy.

Particularly in the last 20 years, successive federal governments have brought in regulatory changes of the grain transportation system that have been far-reaching in scope. The current policy framework, introduced in 1987 under Prime Minister Mulroney and modified in 1996, appears to have been quite successful. Railway productivity has improved dramatically, with much of the savings being shared with shippers. As well, major railways have made significant investments in their respective systems.

To quote some conclusions reached by the Canadian Transportation Act Review Panel, which were cited in a Transport Canada policy document entitled, *Straight Ahead*, the panel stated that:

...the rail system works well for most users, most of the time. The Panel found that the system is fundamentally competitive and efficient. Canada and the United States rank at the top off international comparisons on overall rail system performance. The railways have achieved significant

improvements in financial performance in recent years, attributable in part to the strong performance of the North America economy, but also to impressive gains in productivity.

Nonetheless, we would be remiss as legislators if we were not to consider new ideas and changes to further improve our systems for the movement and handling of grain as for the movement and handling of other commodities. It is in this vein that Senator Banks has introduced Bill S-6, which was Bill S-18 in the Third Session of the Thirty-seventh Parliament. It is also in this vein that shipper groups have pressed for regulatory changes to increase railway competition.

The federal government and a plethora of stakeholders and interested parties have, to their credit, given this matter a thorough airing over the last six years. Whether it was the Estey and Kroeger processes, the CTA review, or other policy statements in and discussions emanating from Transport Canada, all aspects of this issue have been explored.

For example, the Canada Transportation Act, which, in part, is the legislation that governs the movement of grain and other commodities, attempts to achieve a balance between the interest of shippers, carriers and others. It needs to be stated that any changes to the running rights provisions, whether viewed in isolation or as part of a larger body of reforms, could have significant implications that could upset this balance.

As a general priority, government legislative and regulatory initiatives have to help ensure a viable rail network to provide all shippers with efficient and reliable access to domestic, continental and international markets; support the orderly management of capacity issues; help Canadian ports to compete internationally; and to achieve certain environmental objectives.

Paying heed to these general considerations, Bill S-6 raises a number of important issues. For starters, the current regime is one where decisions on running rights applications are made by the Canadian Transportation Agency, which has the expertise and experience to deal with such applications in an independent, quasi-judicial manner. The proposed Bill S-6 seems to change the situation by giving the Minister of Transport the authority to approve a running rights application.

The question that some senators may ask is: Following this model, would we be running the risk of politicizing this process? The question that might be asked as well is: Does this set a precedent for other quasi-judicial bodies by giving selective powers to a minister? Supporters of the bill will no doubt explain why they want to replace an arm's-length process with one that is not.

Another concern that might be raised as we examine Bill S-6 is that because it is limited to the carriage of grain, it may be perceived as unfair to shippers of other commodities — like potatoes in my region of the country — which comprise the vast majority of commodities shipped by rail in Canada. To illustrate that point, a breakdown of rail car loadings in Western Canada in 2002 was as follows: coal, 24 per cent; fertilizer, 17 per cent; forest products, 19 per cent; grain, 15 per cent; and other,

25 per cent. A breakdown of rail car loadings in Eastern Canada in 2002 was as follows: iron ore/concentrate, 31 per cent; ore and mining products, 16 per cent; forest products, 16 per cent; intermodal, 13 per cent; and other, 24 per cent. In terms of rail, one can clearly see the complexities involved in developing policy with respect to the carriage of one commodity in isolation from other commodities. Bill S-6 needs to be examined in this light as well.

(1920)

Aside from these specific questions that honourable senators want explored, there may be others. For example, with respect to politicization and exclusion of commodities besides grain, matters surrounding the precise issue of expanded running rights provisions have to be considered in terms of whether it will result in an improvement to the rather unique situation that is Canada. We all know that this issue is complicated and, for some, even divisive.

In simplest terms, on one side of this issue is the position that competition between Class 1 railways, such as Canadian Pacific Railway and Canadian National Railway, is already strong and would increase still further as system rationalization proceeds. Therefore, no other measure with respect to expanding running right provisions, some might argue, is needed. Others hold a contrary view, saying that the interests of shippers and the goal of reducing shipping costs would be best achieved under a regime where short-line operators are given greater competitive access rights to the properties and facilities of Class 1 railways. Still a further view is that not enough is known to permit a competent assessment of what effects an expanded running rights regime might have. The fact is that there is little or no Canadian experience to take a definite view in the matter. As well, there is also room to question how applicable experiences with open access in other countries and industries might be to Canada's rather unique rail system.

In considering some of these views, it would be instructive to also recall a number of points made by the Canada Transportation Act Review Panel and by the government's response to that review. First, we should recall that the panel concluded that Canada's rail system is not inherently anticompetitive. It found no evidence that railways are earning excessive profits, that market abuse is not systemic or widespread and there is no need at this time for sweeping regulatory measures to raise the level of competition, and that most shippers in most markets within Canada are reasonably well served.

Second, we might want to recall what the panel and the government have said about how an expanded running rights regime could affect railway investment, rail efficiencies and services to shippers. Although the panel supported running rights, it did so under the conditions that track owners are given sufficient encouragement to make investments to sustain the infrastructure and that access charges be set high enough that new entrants cannot exploit the network in which they have no proprietary interest. The panel was also careful to point out that experience with open access in other network industries is not directly applicable to the rail sector because of operational, technical, financial and economic differences.

As an illustration of how difficult this decision is, shippers felt that the panel's proposed access fees were too high and, for this reason, the panel's specific proposal on running rights would be unworkable. On the other hand, railways cited the practical difficulties of establishing a fair level of compensation with a host railway and a range of other concerns, including the loss of efficiency from the reduction of traffic densities.

Honourable senators, in committee, we would want to delve into whether Bill S-6 really resolves any of these competing issues and demands and, if it does, how it does.

For its part, the government, in response to the panel, would not itself identify an approach that would adequately balance concerns about network viability and the need to encourage reinvestment in the system, and the shippers' concerns about the level of excess fees. Simply put, honourable senators, there is a serious concern that expanded running rights could result in introducing inefficiencies into a system that already works reasonably well, by fragmenting traffic among the multiple operators. There could also be a reduction of the economies of scale and density that are essential to efficient railway operations and the financial viability of our main Class I railways in Canada. This reduction could hurt railway infrastructure at a time when it needs new investments and top quality maintenance.

In the past, Canada's two main railways have stated that the uncertainty created by imposing open access or expanded running rights would make it difficult for them to raise funds on capital markets. Opposition has been expressed by the Railway Association of Canada on behalf of some regional and short-line railways, who felt that an expanded running rights regime could have adverse impacts on short-line rail development. This opposition must be taken seriously, honourable senators.

Another point raised by the CTA Review Panel, and cited by the government, is the extensive amount of regulatory oversight that would be required to administer an expanded running rights regime. Resolving disputes between host and guest railways would be onerous enough for a quasi-judicial process.

As I mentioned earlier, Bill S-6 raises questions in one's mind as to whether this would compound the situation through a politicization of the process. From this perspective, it is curious that expanded running rights provisions would not necessarily lead to greater productivity in our rail system but would lead to something more interventionist and, in the case of this bill, perhaps even a politicized crisis.

Finally, honourable senators, the issue of running rights must be considered within the context of other kinds of recourse to which shippers have access, including the provisions of the Canada Transportation Act with respect to level of service, confidential contracts, interswitching rates, connection rates to an interchange point and final-offer arbitration. All indications are that these mechanisms of shipper recourse work reasonably well, but there is always room for improvement.

I salute Senator Banks for his initiative, and further debate and examination no doubt will ensue.

Hon. Jack Austin (Leader of the Government): I thank Senator Kinsella for a thoughtful debate. I hope to do the same, so I would like to adjourn the debate.

On motion of Senator Austin, debate adjourned.

STATE IMMUNITY ACT CRIMINAL CODE

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Tkachuk, seconded by the Honourable Senator LeBreton, for the second reading of Bill S-35, to amend the State Immunity Act and the Criminal Code (terrorist activity).—(Honourable Senator Meighen)

Hon. Michael A. Meighen: Honourable senators, I rise this evening briefly to lend my support to Bill S-35, to amend the State Immunity Act and the Criminal Code. Two weeks ago, the world was reminded once again of the threat that the Western world faces in this new era of global terrorism. More than 50 people were killed in London on July 7, and a number are still unaccounted for. Yet there persists in Canada the feeling that we are immune to such acts. I need only mention two words to remind Canadians of a terrorist attack that took the lives of 331 people, including 154 Canadians: Air India. Let us not forget, as well, 25 Canadians who were killed during the September 11 terrorist attacks in New York.

Canadians have been victims of terrorist attacks for many years, and the families and friends of those victims have suffered their loss with much grief. Now that Canada has been named as a target by terrorist organizations such as al Qaeda, the threat of terrorism directed towards Canadians has obviously increased. It is for this reason that we require in this day and age the legal tools necessary to hold to account those responsible for terrorist activities.

The State Immunity Act has evolved in the past to keep up with the times and provide Canadians with the tools that they require to defend themselves. Prior to its amendment, Canadian citizens were not able to file civil suits against foreign governments for commercial activities. As we entered an era of global commercial activity, the State Immunity Act evolved alongside our global society so that Canadians could hold accountable those foreign states that had breached commercial contracts.

• (1930)

Honourable senators, it is time for the State Immunity Act to evolve yet again. We have entered an era of global terrorism, and Canadians should have the right to hold accountable foreign states that sponsor terrorist activity. Whether a foreign state is directly involved in an act of terrorism, or whether a particular state harbours or permits terrorists to operate and train on their soil, such a country should no longer have a "get-out-of-jail-free" card. Such an amendment also serves to tell the world that Canada does not tolerate states that continue to support terrorism.

[Translation]

The last part of Bill S-35 amends the Criminal Code with regard to individuals involved in terrorist activities. The proposed amendment provides a civil remedy against any person who engaged in a terrorist activity contrary to the Criminal Code. This is another necessary tool for attributing responsibility to individuals involved in terrorist activities.

Honourable senators, we are living in a new era and Canadians need new means for fighting terrorism. It is the government's primary role to protect the well-being of Canadians and to ensure their safety. Unfortunately, the current laws in our country are obstructing justice.

I encourage all senators to support Bill S-35 so that Canada may send a clear message that no form of terrorism will be tolerated.

On motion of Senator Rompkey, debate adjourned.

[English]

ROYAL CANADIAN MOUNTED POLICE ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Nolin, seconded by the Honourable Senator Andreychuk, for the second reading of Bill S-23, to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations).—(Honourable Senator Lapointe)

Hon. Jack Austin (Leader of the Government): Honourable senators, I wish to speak this evening in opposition to Bill S-23. The bill, introduced in the chamber by Senator Nolin, proposes to change the Royal Canadian Mounted Police Act to allow for the unionization of its members. In my view, if Bill S-23 were to become law, it would harm the RCMP and its members, and could place in jeopardy the security of Canada and Canadians.

Honourable senators, in no other country is a police force recognized as a national and positive, even touristy, symbol of the nation. When one says, "police," the image of the RCMP officer is conjured up in the minds of Canadians. The RCMP, as Canada's national police force, is on the front line of tackling serious issues such as terrorism, organized crime, drug trafficking and financial crime, not only in Canada but also internationally. For many Canadians, the RCMP is also their community and provincial police service. In towns and cities across the country, RCMP employees are the first line of defence in ensuring safe homes and safe communities.

The force has members in 750 detachments that are spread across eight provinces, three territories and 200 municipalities. It also provides service to close to 600 Aboriginal communities, including 180 First Nations communities through 74 Community

Tripartite Agreements. Honourable senators, this institution has grown and developed as this country has grown from its humble beginnings over 130 years ago.

[Translation]

The direction and image of the RCMP have changed. The RCMP is now a modern and integrated police force that uses methods for ensuring our safety and protection in a modern world.

[English]

Throughout the 132-year history of the force, RCMP employees have been active members of the community that they serve. They work with youth, schools and community partners to develop strategies that will strengthen society and create better options than a life of crime. Today, as always, the face of the RCMP is in communities across Canada.

Allow me to reiterate, honourable senators, that the RCMP is Canada's national police force. As such, the RCMP is the only police force in this country that has the authority to enforce federal law, including the Criminal Code, anywhere in Canada. The RCMP can apply these laws across all Canadian jurisdictions. This is essential when today's criminal groups operate across countries and, indeed, across the world. The RCMP provides essential services to other police forces across the country, such as providing emergency assistance when and where it is needed and backing up its partner provincial and municipal police organizations.

[Translation]

The national police forces, under the direction of the RCMP on behalf of all Canadian law enforcement agencies, provide invaluable resources to the members of some 500 other law enforcement agencies in the country.

[English]

These resources include databases — fingerprints, criminal record, the DNA databank, forensic images, missing children, firearms — and other specialized services such as those offered by forensic laboratories at the Canadian Bomb Data Centre and the Canadian Police Information Centre. Honourable senators, the RCMP provides primary protective services to our Prime Minister, our Governor General, diplomats serving in Canada and visiting dignitaries.

Honourable senators, the bill proposed by Senator Nolin, while understandable, would encourage the threat of labour disruptions to this unique and treasured national law enforcement institution. By fashioning a change in attitude, both within and without the force, it could open the door to disruptive job action by those who enforce local, provincial and federal laws across the country. We do not want to risk a compromise of the ability of the RCMP to provide essential services to other police forces and correctional institutions. We do not want to put at risk the safety of our leaders and dignitaries from around the world and, indeed, Canada's reputation around the world.

Honourable senators, beyond the risk to Canada and Canadians, if RCMP members were given the option to disrupt their important duties, one would have to consider the effects of such a drastic change on the members. Every single RCMP

member in Canada today joined the organization knowing that it was not unionized and would not be unionized. RCMP members do not pay union dues but instead have the privilege of staff relations representatives, known as SRRs, working for them across the country. The salaries of these full-time employees are paid by the RCMP. Essentially, honourable senators, this means that the members are receiving the same benefits as unionized employees.

The SRRs are uniformed as well as civilian members of the RCMP. As such, RCMP regular and civilian members are represented by one of their own who knows the realities of their environment and their needs. The SRRs meet regularly with the Commissioner of the RCMP and senior management and are brought into the decision-making fold of the RCMP. They are truly a part of what shapes the direction of the organization. Thus, the SRRs create a collaborative, rather than an adversarial relationship.

I am certain that honourable senators are wondering how Senator Nolin's proposed bill, which would introduce collective bargaining, would help RCMP members negotiate better compensation packages. Treasury Board sets RCMP salaries based on negotiated settlements of other large police services in Canada to ensure that their pay scale is fair and comparable. RCMP members benefit from the collective bargaining regimes of other police services, while at the same time benefiting from a more collaborative relationship with management and never having to face the possibility of labour disruption.

Currently, RCMP members rank near the top of large police services in Canada in respect of compensation. Beyond dollars and cents, I would venture to say that RCMP members have a pension and benefits plan that is one of the best in the country. The men and women of the RCMP have benefited from a system that is collaborative and productive for both employees and management. This has ensured the smooth functioning of our national police force.

• (1940)

Finally, honourable senators, Senator Nolin's bill proposes to eliminate the RCMP External Review Committee, or ERC, and place the responsibility in the hands of the Public Service Staff Relations Board for matters relating to internal dispute resolution and discipline. In my view, this would be a step backwards for labour relations within the RCMP.

The ERC, an independent civilian agency, has almost two decades of expertise in interpreting labour laws and policies relating to RCMP grievances and appeals. In carrying out its work, the ERC ensures that RCMP members are treated in a fair and equitable manner, in keeping with the public interest.

Furthermore, honourable senators, this bill would raise issues regarding the power of the Commissioner of the RCMP to lead his own forces. This would compromise the ability of the organization to conduct its internal business in a way that lends dignity and respect to our national police service. We cannot

dilute the authority of the Commissioner to do the job he was given, which is to manage the proud men and women of the RCMP in their service to Canada and Canadians.

Let me summarize the key points. The Supreme Court ruled in the 1999 *Delisle v. Canada* case that the prohibition against collective bargaining for RCMP members does not contravene freedom of association, freedom of expression and equality rights enshrined in the Charter of Rights and Freedoms. Indeed, the system that is currently in place has served members and the organization well. To fix a system that is not broken would be a disservice to the men and women of the RCMP and would cripple their Commissioner in his ability to lead the organization.

Honourable senators, we cannot allow the possibility of labour disruption to compromise the RCMP's fundamental responsibility to policing, whether that be in the smallest town in Canada, or in cooperation with international partners in the global fight against terrorism. Although the proposed bill would not allow strikes, it would create an adversarial bargaining environment that could lead to RCMP members deciding to work to rule, to refuse to work overtime or to refuse to respond to call-backs, with consequent negative impacts on the RCMP's unique national functions.

Let me be clear that there is no demand from the members of the RCMP for collective bargaining. RCMP members were not widely consulted in connection with this bill and their elected representatives do not support this bill.

Honourable senators, when the question is put, Bill S-23 should be dropped. It is not good public policy.

Hon. Lowell Murray: Honourable senators, this is a private member's bill essentially, as my friend is aware. Nevertheless, he has engaged the authority of the government as one of its ministers in speaking against it and, if I understood his last comment, urging the rest of us to defeat it at second reading.

In substance, I do not disagree with the arguments he has put forward. Nevertheless, it is rather unusual, with a private member's bill, for us not to let it pass through second reading and go to committee.

I would like to see this bill go to committee because I would like to see senators have the opportunity to canvass at least three of the matters that the Leader of the Government mentioned in his speech. I refer first to the process by which wages and working conditions are negotiated or established with the RCMP. Second, regarding the role of the External Review Committee, the ombudsman who deals with complaints from within the force, I think it will be good to canvass that. Third, there is the role of the Commissioner, to which the minister has referred.

I would not like to commit myself to supporting the bill after it gets back from committee. I am sympathetic to the arguments put forward by the minister but I do believe it would be in the public interest for senators to canvass at least these three issues in committee.

When I speak of the role of the Commissioner, I am recalling a time, many years ago, when he and I were a lot younger around here, when I engaged a Commissioner of the RCMP on a personnel matter. I recall very well his reply to me: "I am the Court of Appeal." I think things may have changed and improved since those days but I would like to see the evidence for all this.

I think people on the Standing Senate Committee on Legal and Constitutional Affairs, or the appropriate committee of this place, would do well, on behalf of the Senate and public policy, to canvass a lot of these matters in committee. For that reason, I would urge the honourable senator to relent a bit and let the bill through second reading and send it to committee.

Senator Austin: Honourable senators, the key point I want to make is that I would not like to see this bill adopted in principle. I would not object at all to the reference of the subject matter of the bill, which we have done in other cases, to committee to answer the questions of Senator Murray or questions from other senators.

Hon. Terry Stratton (Deputy Leader of the Opposition): I have no objection to the Leader of the Government in the Senate wanting to move the subject matter of the bill to committee. I have no problem with that at all.

The only problem I have is that there are several other bills languishing in committee that have not been heard or been dealt with, and they have been there for months. I would agree with him, should he agree with our side that the bill be dealt with at committee.

Senator Austin: I thank the Deputy Leader of the Opposition. The subject matter of the bill should probably go to the Standing Senate Committee on Legal and Constitutional Affairs, and the chair and members will have heard our interest in having the bill dealt with. If it is agreed to send the subject matter of this bill to the committee, perhaps we could do that now.

The Hon. the Speaker: The mover of the bill is not here. Someone would need to move that motion.

SUBJECT MATTER REFERRED TO COMMITTEE

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I so move. I move that the subject matter of Bill S-23 be referred to the Standing Senate Committee on Legal and Constitutional Affairs for study — in a reasonable length of time, please.

The Hon. the Speaker: I can only put the motion. No senator rising, I will put the question. It is moved —

Hon. Marcel Prud'homme: I cannot speak for my friend Senator Nolin, who is unfortunately absent for good reason. However, I will take the risk of saying that if he were here, he would be happy at least that some progress is being made on this very important bill for him and for many other senators.

The Hon. the Speaker: I will put the motion. It is moved by the Honourable Senator Stratton, seconded by the Honourable Senator LeBreton, that the subject matter of Bill S-23 be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

On motion of Senator Stratton, subject matter of bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

STUDY ON OPERATION OF OFFICIAL LANGUAGES ACT AND RELEVANT REGULATIONS, DIRECTIVES AND REPORTS

INTERIM REPORT OF OFFICIAL LANGUAGES COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Corbin, seconded by the Honourable Senator Poulin, that the sixth report of the Standing Senate Committee on Official Languages, entitled French-Language Education in a Minority Setting: A Continuum from Early Childhood to the Postsecondary Level, tabled in the Senate on June 14, 2005, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Canadian Heritage, the Minister of Social Development, the Minister of Justice and the Minister responsible for Official Languages being identified as Ministers responsible for responding to the report.—(Honourable Senator Murray, P.C.)

Hon. Lowell Murray: Honourable senators, having just delivered myself of an unscheduled and spontaneous intervention, I do not want to add to the oratorical marathon that I think will take place this week. I do have a speech to make on this subject but, unlike the other speeches that will be made during the week, my speech can wait, and I think I will let it wait.

Let me just say that this is, in my opinion, a very good report on a subject that I believe we all agree is extremely important, that is to say, French-language education in a minority setting.

• (1950)

I need not remind honourable senators that this subject has been central to some of the most tumultuous political controversies and debates in our history, beginning shortly after Confederation and lasting until recent times, nor need I remind honourable senators that on this subject Canadians, and in particular our political leadership, have made some of the most egregiously bad decisions in our history and, at times, some of the most courageous and even noble decisions in our history.

I can say this is a good report with due objectivity and modesty because I did not join this committee until about midway through this study. I draw your attention to the report because it is an upto-date analysis of the state of French language education in a minority setting today. I cheerfully acknowledge that most of the witnesses who appeared before the committee were supporters of minority language education. Their submissions were important because they had availed themselves of the most modern

analytical tools, be they legal, demographical or sociological, to examine the state of French language education in a minority setting. If you do not have time to read their presentations, a reading of the report, which is not too long and would not be too laborious, will give you an excellent account of the state of play today. The report includes recommendations with avenues of solution, not all of which are necessarily solutions for any government to pursue, but belong at the community level.

This is a good report. The speech that I would like to make some time on the subject can wait until another time. What is important for tonight is that the chairman, Senator Corbin, I and other members of the committee would like the report to be adopted, because we have availed ourselves of rule 131(2) of the Rules of the Senate, which requests a formal response from the government. If honourable senators, in their wisdom, see fit to adopt this report tonight, the clock will start ticking on the time limit for the government's response, and the sense of anticipation for this that Senator Corbin, I and others feel will be heightened, as will our gratitude to colleagues for having adopted the report.

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[Translation]

STUDY ON NATIONAL SECURITY POLICY

BORDERLINE INSECURE—REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the twelfth report of the Standing Senate Committee on National Security and Defence, entitled: *Borderline Insecure*, tabled in the Senate on June 14, 2005.—(*Honourable Senator Stratton*)

Hon. Shirley Maheu: Honourable senators, I rise today to speak in response to a report entitled *Borderline Insecure*, by the Standing Senate Committee on National Security and Defence.

[English]

I do so with considerably mixed feelings. This is a comprehensive report and is the result of endless study. I compliment the members of the Standing Senate Committee on National Security and Defence for a provocative set of proposals on a multitude of issues related to border security and cross-border activity.

I wish to preface my comments with a brief story about recent events that have implications for the recommendations of this report. Across the St. Lawrence River, on our border with the United States and opposite the city of Cornwall, is a sleepy American community called Roosevelttown in upper New York State. During daylight hours, there is a steady flow of traffic coming and going at this border crossing. There is not usually much to report about at this international link. Activities there are generally quiet, normal, regular and dull. However, there was recently something noteworthy about the situation at the Cornwall-Roosevelttown crossing. It seems that a majority of the U.S. customs and immigration personnel on duty are American veterans of the Vietnam War, a conflict that ended more than three decades ago.

I am told that there are 26 permanent customs and immigration positions at Roosevelttown. I understand that all 26 staff members holding these positions were recently absent on stress leave. I believe that when we talk about providing guns for our border control personnel, it would be useful to reflect on all aspects of border control activities and, in particular, the changes that the presence of guns might make in the entire effectiveness of border monitoring and control.

A border crossing at 3 a.m. can be a very lonely posting. I am sure that we can all imagine a Vietnam veteran, perhaps with a wandering mind, gun in hand, in such a situation in the middle of the night. The loneliness affords much time for daydreaming. What is he dreaming about? What crisis does he expect, and what is his reaction likely to be? Canada does not have Vietnam veterans to patrol our borders, and, frankly, I am glad that we do not.

It could be that Vietnam veterans are prone to stress because they do not want to ever have to use the gun at their side. There is no evidence in the committee report that suggests that the committee either sought or digested any analysis available concerning stress and guns. The real question is: Do guns plus a lonely posting plus border personnel equal more or less stress on the job? What about the factor of women's employment and the issue of guns in our customs service? The report is silent on these important issues.

[Translation]

The committee has recommended that our border guards carry guns. I am unequivocally opposed to this recommendation and, if it is implemented, we will have gone much too far.

[English]

Honourable senators, we should all worry about guns. I worry about guns. I worry about the hijacking of our lives, the challenges to normalcy by terrorists. We must find ways not to have our national psyche hijacked in such a manner.

I am not naive, nor am I an antigun handwringer. Such a characterization would be totally unfair. Our long-term program to maintain the registration of guns has been both costly and controversial, but I believe it is working, and now it will work. Never will we be able to calculate the positive results and the preventive scope of the message that gun control has achieved,

not only in Canada but also across the border. We have created an atmosphere of caution on the part of those who might otherwise use guns. In so doing, our citizens are safer; our public policy is the right one.

• (2000)

Since no one has convinced me otherwise, my sense of what our border personnel are doing is an excellent job to identify criminals at border crossings. Our customs officials are governed by multilevel response regulations when dealing with potentially explosive incidents. They have well-documented, superior skills in diplomacy, patience, tact and crisis management. Let us help them to do their work by increasing the ceiling, possibly on shopping regulations for Canadians returning from the United States, in order that our personnel may focus more important time on border crossing issues.

During the more than 130 years since Confederation, Canadians have been proud to remind each other that we occupy peacefully the north side of the longest undefended border on this planet. This self-congratulatory attitude is much more than long-term rhetoric on our part. This fact boldly and proudly speaks to the heart of who we are as Canadians.

The Canada-U.S. border is hardly just a geographical division; it is very much more than that. The border is our psychological and philosophical line in the sand, so to speak. It helps to define what we and who we are. To tinker with this by having armed men and women at our border crossing is much more than tinkering with border security; it is, honourable senators, a major assault on that which makes us different. I do not believe that Canadians are prepared to capriciously give some toys to the boys that would serve to challenge and reject so much of what we stand for. What about women already employed in Customs operations?

[Translation]

What will happen to women who refuse to accept this outrageous belief that guns are the great saviors of our civilization? And what about the recruitment of more women under the condition that they carry a gun?

[English]

Many honourable senators will remember the great controversy about the proposed arming of police officials in London, England. There had been some attacks there by the Irish Republican Army. Police officers in London — one of the most diverse and cosmopolitan cities — are still not armed. This remains so in spite of race riots, underground train bombings and other terrorist events. While being surrounded every day by tensions, London police officers maintain their dignity, professionalism and effectiveness.

In Canada, there are always those people who have the same knee-jerk reactions to problem solving — "Give us guns!" It seems that they are saying that in their ignorance of the very high level of professionalism manifested by our Canadian Customs officers in their day to day conduct, and in face of the frequent, American-inspired solutions, the demand continues to be —

"Give us guns!" Only guns will ensure the certain road to dignity and effectiveness by our customs agents, so they preach and fervently believe.

I am probably not permitted to use a word stronger than "balderdash" in response to this perverse line of reasoning.

Senator Mercer: Stretch the limits!

Senator Maheu: London police officers, or bobbies as policemen are called there, continue to carry their traditional stick, called a truncheon, and they also continue to enjoy their centuries-old status of being the most respected police force anywhere. I hope, honourable senators, that we will revisit this issue with some perspective so that we will not be seduced by thoughts of guns.

On another matter, honourable senators, why was this report of the National Security and Defence Committee first unveiled outside Parliament? Is it not the long-standing custom in this house and in the other place to issue such documents in either house, whichever forum is appropriate, in this case the Senate of Canada, prior to any non-parliamentary issue or discussion? This is our established and time-honoured process. Why was it violated? How can we complain about cabinet ministers making announcements outside of Parliament if our committees are doing the very same thing?

I realize the report was tabled on Tuesday, June 19 and only delivered to my office the next day, not looked at and certainly not debated. However, honourable senators know that the results of committee work in either chamber are first tabled and often followed by a comprehensive statement of the contents of a report, and only then does such a report become the subject of a news release or a news conference, followed by the frenzied pace of the committee chair and committee members while they engage in editorial boards, talk shows, service club regurgitations and town hall meetings, but that is another story.

To alter the course of this presumed sequence of events is to be in contempt of Parliament and of the Canadian people. This is clear and beyond debate. Why was the usual and expected procedure not followed? Why was there this haste? Why was there the patent disregard to those of us not on the committee?

To table a committee report suggests future debate. On the contrary, to unveil a committee report outside of the parliamentary context and in an ex cathedra fashion might imply that such a report is now beyond the Senate, or already approved by the Senate, perhaps never needing or requiring at all any Senate approval. Such procedure is the very absence of procedure. Clearly, it is a contemptuous act.

The least that senators should expect from this matter is an unqualified and heartfelt *mea culpa*. A more meaningful response would be a commitment never to act again outside of this established procedure.

Some Hon. Senators: Hear, hear!

Hon. Tommy Banks: Honourable senators, I thank Senator Maheu for her compliments to the committee for its assiduous work, with which she began her remarks, as the record will show. However, there is a misimpression, which I would not want to leave with honourable senators, and that is that the committee

recommended in its report that border officers or agents should be armed, period. That is not what happened. If honourable senators examine the history of the reports of this committee, committee members are on record as being specifically opposed to such arming when it was requested that we support that move by the members of the border services.

The report says that because of matters of security at Canada's ports, there needs to be a police presence at those ports of entry. As Senator Maheu has said, the border is undefended, in more ways than one.

In light of the security measures that we have seen and heard of from members of the border agency, the committee recommended that there be an RCMP presence at the border crossings, in the absence of which — and only in the absence of which — border officers should be armed.

Senator St. Germain: Hear, hear!

Senator Banks: Further, we made no distinction in the committee's report as between men and women because we make no such distinction.

The one point we did make clear was that border agents who are already employed and who wish not to carry arms, in the event that that were to happen, regardless of whether they are male or female, should not be required to do so.

Senator St. Germain: Hear, hear!

On motion of Senator Rompkey, debate adjourned.

• (2010)

STUDY ON ISSUES RELATED TO MANDATE

SECOND INTERIM REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report (second interim) of the Standing Senate Committee on Energy, the Environment and Natural Resources, entitled: Sustainable Development: It's Time to Walk the Talk, tabled in the Senate on June 14, 2005.—(Honourable Senator Banks)

Hon. Tommy Banks moved the adoption of the report.

He said: Honourable senators, I know that every one of you has read the deathless prose contained in this report. However, in case one or two of you were on holidays, I want to make clear that what it says is that this government, and the one before it and the one before that, has done noble work in terms of identifying the increasing difficulties having to do with sustainable development, and the principles that those successive governments have adopted have been excellent ones. The report then goes on to point out that the identification of those issues has not been matched with the commitment of resources or determination by any of those governments and that we need to do that. Hence, the title of the report: It's Time to Walk the Talk. I urge honourable senators to vote for its adoption.

The Hon. the Speaker: Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

INFORMATION COMMISSIONER

MOTION IN SUPPORT OF HOUSE OF COMMONS MOTION TO EXTEND TERM BY ONE YEAR—DEBATE ADJOURNED

Hon. A. Raynell Andreychuk, pursuant to notice of July 6, 2005, moved:

That the Senate of Canada join with the House of Commons, in recommending that the term of John Reid, the Information Commissioner of Canada, be extended by an additional year effective from July 1, 2005.

She said: Honourable senators, this motion has a time limit which should be dealt with, and I hope that there will be some consensus in this chamber.

The Prime Minister, and obviously the cabinet, extended Mr. Reid's term by three months. There was no consultation with Parliament, as I believe we have repeatedly requested in the past. I believe that this chamber should have equal weight with the House of Commons when it comes to parliamentary officers.

When Mr. Radwanski was appointed as Privacy Commissioner, this chamber called Mr. Radwanski to appear before us. It was clear at that time that there was no process by which Parliament assessed how officers of Parliament were appointed. It was also clear that the candidates were generally chosen in the usual manner that Orders-in-Council appointments were made. Therefore, no real arm's length process involving Parliament occurred. In the spirit of democratic reform, there was much discussion that Parliament needed to get itself involved in this process because ultimately these officers are responsible to Parliament.

Ms. Stoddart, appeared before us as the replacement for Mr. Radwanski, with the interim Privacy Commissioner, Mr. Robert Marleau, having worked out a reasonable procedure. It was noted that she did go through a process that was akin to the Public Service Commission processes. In other words, there was an attempt made to involve others and to give fair opportunity for all to apply for the job — all those that have some interest and some competence.

I and other senators remember that we called for a process that would be truly owned by parliamentarians for their officers. In fact, I recall Senator Moore had already compiled a valid series of questions to which he asked Ms. Stoddart to reply. We had no assurance that the process as put forward by Mr. Marleau for Ms. Stoddart's appointment would, in fact, be used for other officers. Therefore it is important to extend Mr. Reid's appointment so that an open and transparent process involving the Senate and the House of Commons can be utilized.

The government is also preparing a change to the access to the information law and there is discussion that there will be some blending of the access to information process with the privacy process. The "how," "when" and "if" are still to be worked out. In fact, these are rights that pertain to citizens, and these should be fully discussed within Parliament.

Both present office holders can give valuable information and intricate procedural knowledge to Parliament and to the government. Mr. Reid should continue for this reason also. If we are changing the act or the process, we cannot know what capabilities the new access to information officer might need. In other words, the job description is changing.

The House of Commons voted 277 to 2 to extend Mr. Reid's term. We would be remiss in our obligations to the citizens and to our parliamentary officers if we did not extend his term so that we could do our job properly.

Government has extended for three months Mr. Reid's appointment and they can, of course, extend it further. However, honourable senators, the pressure should be on us to put forward a process so that the government knows what is expected of them when they bring forward the names, and we are ready and willing to properly exercise this accountability.

Therefore I would ask this chamber to extend the term of Mr. Reid to coincide with what the House of Commons requested. I believe it would be in the interests of the government and this chamber.

(2020)

Hon. Marcel Prud'homme: Would the honourable senator take a question?

The Hon. the Speaker: Senator Prud'homme wishes to ask Senator Andreychuk a question. Will Senator Andreychuk take a question?

Senator Andreychuk: Of course, honourable senators.

Senator Prud'homme: The question is simple. Is the honourable senator suggesting that we enhance the role of the Senate, as it should be enhanced, by calling Mr. Reid as a witness so that we can ask him more questions? Many people believe that the two positions should be united. Mr. Grace has said that would be a good idea. Sometimes, the Senate does its best work when we have these high officials in front of us to question them.

Would the honourable senator suggest to her leadership that they suggest to the Senate that, perhaps, it would be wise to call Mr. Reid? I share the opinion of the honourable senator that the appointment should be for one year. Mr. Reid has made many proposals publicly, but none to us. After all, we are the ultimate so-called chamber of sober second thought.

Senator Andreychuk: I will certainly put that to my leadership.

The problem of only calling Mr. Reid has been a problem that not only I have faced but which other senators have faced. We are told he will come before us because his appointment is being extended, or because a new appointment is being made. However, as a body, we have not really put forward our expectations.

Therefore, I find that some senators are asking questions more of the government than of ourselves because these are officers of Parliament. We should know what we demand of them. We should have a transparent and open process for anyone who is competent to apply for these positions. These are the most important positions for accountability in a democracy.

We are the ones who have allowed it to go on as an Order-in-Council process. It is time that we exercised our role in a more routine way with regard to all the officers of Parliament.

The original comments that were made were not made solely by me but by many other honourable senators over the course of the last two or three appointments.

Hon. Jack Austin (Leader of the Government): Honourable senators, I have a further question for Senator Andreychuk.

As the honourable senator knows, the item which she has moved is under the rubric, Motions. In the remarks of the honourable senator prior to the question asked by Senator Prud'homme, I thought that the honourable senator said that the Senate would have some determinative role to play with respect to the extension of the term. I see the honourable senator shaking her head, meaning that she understands that this is simply a recommendation to the Governor-in-Council to extend the term to one year. I take it that is clear. I wanted the chamber to understand if the honourable senator had a different view.

The motion is narrowly cast. It simply deals with the term of John Reid. However, most of the debate of the honourable senator relates to a completely different topic, which is the subject of this chamber examining the criteria for the appointment of parliamentary officers. Is that the case?

Senator Andreychuk: Senator Austin is right. We can pass a motion recommending to the government that the appointment be for one year. If the wording does not suit the government, then the leadership can discuss it.

We need a one-year term for two reasons. First, the government has signalled that it will go through a process of changing the access-to-information law. It has given a signal that it may combine the position with the one for privacy. Therefore, it would be important to keep Mr. Reid available for the next year. As a result, we would have the benefit of his knowledge while we are looking at other pieces of legislation. He has a seven-year background in this area.

We would also be able to know how to structure the competency that is necessary for that position. It is true that I am talking generalities. However, the only way to arrive at a generality is to pinpoint it specifically. I have said before that we need a process. Nothing has occurred.

If we do not put our feet to the fire with Mr. Reid's situation and his successor, then we will still be talking in generalities five years from now. We can use this appointment as the first in setting a process into place.

On motion of Senator Rompkey, debate adjourned.

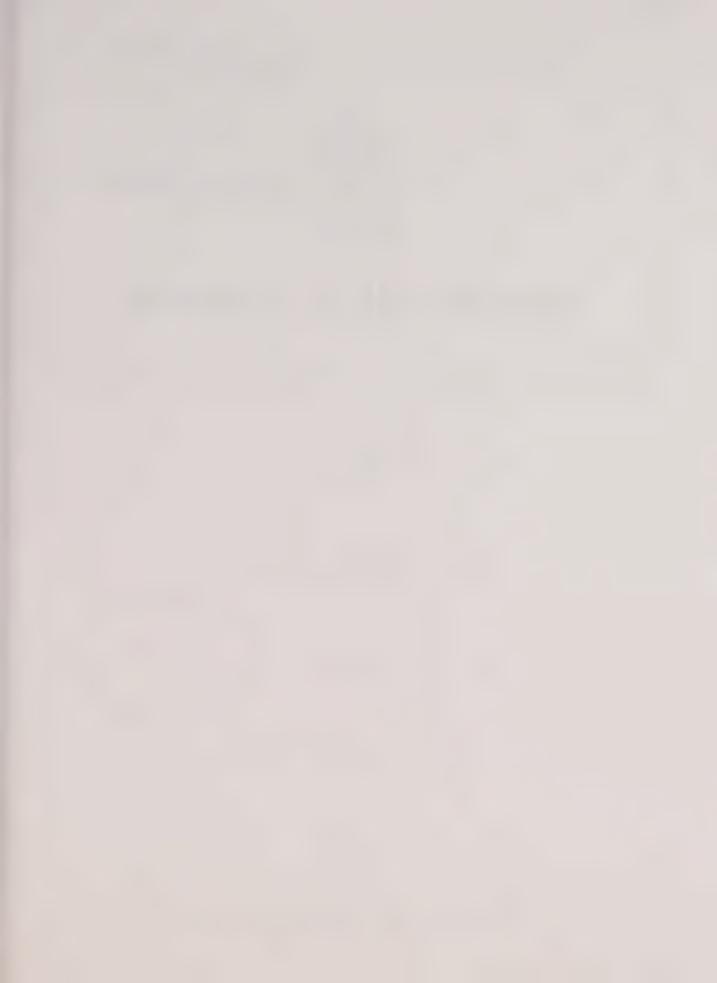
The Senate adjourned until tomorrow at 2 p.m.

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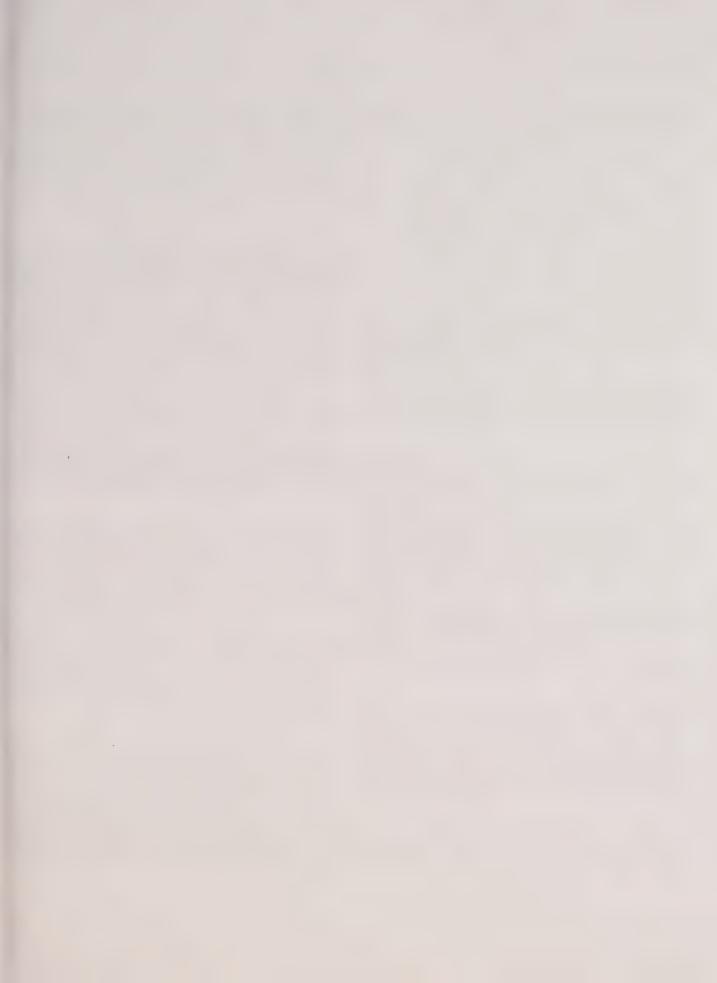


THE HONOURABLE DANIEL HAYS SPEAKER

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THE SENATE

Tuesday, July 19, 2005

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

THE LATE LILLIAN TO

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak of Lillian To, a Vancouverite and one of the 25 most influential Canadians in British Columbia, who passed away on July 2. Canada has become the great nation that it is because of the contributions of millions of immigrants who became Canadians and made Canada their home. Arriving in Vancouver in 1973, Lillian put her Christian faith into action for the next 32 years, serving others with a passion and a vision that were limitless and building a legacy of acceptance, respect and tolerance amongst all British Columbians.

Although small in stature, Lillian could only dream and work on a grand Canadian scale. Always at the forefront of emerging social issues, she would identify and respond to grassroots community challenges that often proved to be national in scope. She was persistent as a champion of others and as a developer of innovative services for those most in need. She was compassionate and understanding of everyone, giving equal consideration and care whether she was meeting with the Prime Minister or with the most recent arriving immigrant or refugee. In 1988, Lillian became the Executive Director of the United Chinese Community Enrichment Services Society, SUCCESS. It is a non-profit charitable organization mandated to assist newcomers to overcome language and cultural barriers. Lillian transformed SUCCESS from a small storefront office in Chinatown to one of the largest social services agencies in B.C. Under her leadership, SUCCESS grew to a staff of 350 with 9,000 registered volunteers who serve more than 760,000 people annually throughout its 12 offices and various outreach programs across British Columbia.

A tireless community worker and organizer, Lillian typically worked an average 14-hour day seven days per week during her 37-year career. In standard working weeks, her career would be the equivalent of 74 years of service. Like many true leaders, Lillian gave generously of herself and placed service to others first. Always humble, she would consistently credit others for her many accomplishments, setting an example of selfless service that touched and inspired hundreds of thousands of Canadians to be better citizens.

Lillian leaves behind a loving husband, two devoted sons and a daughter-in-law, as well as a community and country that have been enriched by her presence, strengthened by her achievements

and indebted to her for her tireless service to others. Honourable senators, Lillian To, my friend of many years, will be missed by all communities in Vancouver and across British Columbia.

THE LATE FRANK MOORES

Hon. Ethel Cochrane: Honourable senators, last Thursday I was in St. John's to join the people of my province in mourning the loss of former Premier Frank Moores. Mr. Moores died last week following a lengthy battle with cancer at the age of 72. He was known for his powerful charisma, quick mind and genuine way of relating to people. These were key factors in his many political successes over the years. He was first elected a Member of Parliament in 1968. Later, he became President of the Progressive Conservative Party of Canada. In 1972, after returning to his home province, Mr. Moores led the party to its first victory since Newfoundland joined Confederation in 1949. Of that historic win, Premier Danny Williams said: "He toppled Goliath, a legend, a man considered invincible... And he did it with his talent, his genius, his wit, his charm and his political savvy."

During his tenure in office from 1972 to 1979, he orchestrated deep, lasting change. Brian Peckford, who succeeded him as premier, said that Mr. Moores will be remembered as "The premier who significantly changed the nature of governance in the Government of Newfoundland and Labrador."

Honourable senators, he did this by strengthening measures that we simply take for granted today. Prior to 1972, for example, Newfoundland and Labrador did not have a strong public tendering act. He ensured that a qualified company that was bidding on government work and was the lowest bidder won the contract. It marked a new way of doing things in the province; one which emphasized accountability and transparency.

He also ushered in an era of new-found respect for the roles and rights of the Members of the House of Assembly. The Honourable John Crosbie, who served in the Moores cabinet for five years, said that Mr. Moores, "was responsible for the restoration of democracy in the sense that everybody could feel free to express their opinions without fearing there was going to be any action taken against you by somebody who controlled the government."

As the democratic process requires, this respect was extended beyond the government members. When Moores came to power, opposition members had nothing, not even offices in which to perform their duties. One of his first tasks as premier was to appoint a deputy minister to find office space for the members. To Mr. Moores it was critically important that all MHAs be treated equally and with respect. Following his career in provincial politics, Mr. Moores helped to organize Mr. Mulroney's successful leadership campaign in 1983 and later established a high-profile lobbying group, Government Consultants International.

Honourable senators, it was with great sadness that Newfoundland and Labrador said good-bye to this truly exceptional man. We are the better for having known him and we are grateful that his legacy will remain with us forever. I extend my deepest sympathies to his wife, Beth, his children and his entire family.

PRINCE EDWARD ISLAND

2005 MARATHON OF HOPE

Hon. Catherine S. Callbeck: Honourable senators, on April 20, 1980, a young man set off on what would become one of Canada's most inspiring journeys. Terry Fox called his run the Marathon of Hope, and his story, his bravery and his determination touched Canadians everywhere.

Terry Fox's legacy continues today. Every year, Terry Fox runs are held in Canada and in more than 50 countries around the world. The runs attract more than 3 million participants. These people gather to honour Terry Fox and his dream, and to help raise funds for cancer research.

In Canada each September, Canadians across the country come together to take part in the runs in their communities. This year, which marks the twenty-fifth anniversary of the Marathon of Hope, a special run will be held on September 18 in Prince Edward Island. That morning, the 13-kilometre Confederation Bridge between Prince Edward Island and New Brunswick will be closed to vehicle traffic and participants will walk or run across the bridge that spans the Northumberland Strait.

• (1410)

Honourable senators, great strides have been made in cancer research and treatment since Terry Fox began his Marathon of Hope. We must continue that progress in the years to come.

I encourage all Canadians to travel to Prince Edward Island to participate in this unique event in memory of Terry Fox. As Terry himself said a quarter century ago:

If you have given a dollar, you are part of the Marathon of Hope.

ROUTINE PROCEEDINGS

SAME-SEX MARRIAGE

PRESENTATION OF PETITION

Hon. Consiglio Di Nino: Honourable senators, on behalf of some 2,321 concerned Canadians from the Greater Toronto region, I present a petition to support the existing one man, one woman traditional marriage definition. The petition is in the form of an accompanying letter, which I will read:

Bill C-38 has passed the House, and is now in the hands of the Senate. To those who believe in the sanctity of marriage — the silent majority, the passage of C-38 is a black mark in the history of this great country.

By invoking the Charter of Rights and Freedoms, Bill C-38 has been proposed supposedly to rectify an injustice of inequality. Invoking equal rights in this case is a smokescreen. Discrimination against same-sex unions would indeed have existed if same-sex unions and traditional marriage were like-things that were treated unequally. But the Senate can wake up Parliament to the reality that these are in fact not like-things — they are fundamentally very different realities. By applying a simple test to differentiate between the two, it is evident to anyone that society can rely on traditional marriage to bring forth future generations to perpetuate itself, whereas same-sex unions simply cannot produce progeny. Since they are not like-things, they should not both be considered as marriage. Bill C-38 is in fact a misapplication of equal rights to non-equal phenomena.

Even though Bill C-38 is now with the Senate, we realize that it is nearly impossible even for the Senate to reverse it. But the Senate has the power to modify it in order to mitigate its deleterious impact on society. May we therefore request through you that the Senate

- (1) If possible, promote a different name for same-sex "marriage" to indicate that in essence it is different from traditional marriage.
- (2) Tighten or bolster up the language of the amendments, or incorporate new amendments to the Bill, so that they really have teeth in protecting religious groups in exercising their freedoms of religion, of belief, of conscience, and of speech. Above all, please direct the Senate's special concern to:
 - (a) the rights of marriage commissioners to refuse to perform same-sex "marriages,"
 - (b) the rights of church organizations to control the use of their properties. and
 - (c) the rights of parents and school teachers to address what is taught in family life programs

We are confident that the Senate can find some way to eliminate as much as possible the black mark left by the current version of Bill C-38. Please convey our sentiments to all other members of the Senate.

The undersigned are the 2,321 Canadians on whose behalf I present the petition.

QUESTION PERIOD

CANADA-UNITED STATES RELATIONS

NORTH DAKOTA - DEVILS LAKE DIVERSION

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, my question is addressed to the Leader of the Government in the Senate.

Honourable senators, during the recent G8 summit in Scotland, Prime Minister Paul Martin yet again lobbied U.S. President George W. Bush for help in resolving the impasse over Devils Lake. This marks the fifth time in the last 16 months that Mr. Martin has discussed this issue with the American President.

Based on Mr. Martin's lobbying efforts, could the Leader of the Government in the Senate provide us with any evidence that a resolution to this dispute will be reached that will be agreeable to Canada's position? In other words, can we be optimistic that the Prime Minister is having any influence in moving this issue toward a satisfactory conclusion?

Hon. Jack Austin (Leader of the Government): Honourable senators, regrettably I have nothing to add to the responses I made to the question of Senator Johnson on the Devils Lake issue late last month.

Senator Stratton is correct that the Prime Minister has been assiduous in dealing directly with President Bush. Premier Doer also has been highly active, as have members in the other place, including the Honourable Reg Alcock and members of the other parties there.

This is not a partisan issue. This is an issue in which Canada has a legitimate concern; and we have pressed that legitimate concern on the United States, at the level of the President, at the level of the Secretary of State and at the level of the Governor of North Dakota. I sincerely wish I had something positive that I could add to the developments, but I regret I do not.

Senator Stratton: I would agree with the Leader that this is a non-political issue. All parties have a vested interest in resolving this matter.

Currently, the Friends of the Earth Canada and the Gimli municipality, where Senator Johnson resides, had a legal opinion prepared by a top environmental lawyer, David Estrin, regarding the possible pursuit of two separate court actions should the Devils Lake diversion proceed. One would take place in the Federal Court of Canada and the other in Manitoba's Queen's Bench court.

In terms of any potential legal avenues that the federal government might consider, and in the event that the diversion proceeds on or about August 1, does the federal government have an opinion as to whether this development, in other words, those two potential court cases, is helpful to its overall strategy?

Senator Austin: Honourable senators, I have no information on the position of the Department of Justice, and I was not aware of Mr. Estrin's opinions.

I have said here that while there may be actions that could be taken in the Canadian courts, the most significant action ought to be pressed in the U.S. courts. While Canada's efforts to persuade governors of affected states — because North Dakota is not the only state involved; there are other states that are involved — to take action in the judicial process in the United States would be helpful, so far no such action has been taken. There have been letters sent to the President and the Secretary of State by the Governor of Ohio, as was mentioned here previously, and by the Governor of Minnesota, I believe.

Senator Stratton: Thank you.

FISHERIES AND OCEANS

FUNDING CUTS TO INDEPENDENT RESEARCHER STUDYING NORTHERN COD STOCKS

Hon. Gerald J. Comeau: Honourable senators, my question is also for the Leader of the Government in the Senate. We learned two weeks ago that Dr. George Rose, one of the most highly respected and well known fisheries research scientists in Newfoundland and Labrador — most Atlantic Canadians who are familiar with the fishery will be familiar with Dr. Rose's work — announced that the Department of Fisheries and Oceans had cut funding for his research.

Dr. Rose has conducted annual surveys of the northern cod stocks for the last 15 years. He is one of the only independent researchers in the province, and his findings provide much-needed information on the state of the northern cod stocks.

This news has upset many people, including the Premier of Newfoundland, Danny Williams, the provincial fisheries minister and even the federal Minister of Natural Resources, John Efford, who has said that this cut in funding was a mistake.

• (1420)

Could the Leader of the Government in the Senate tell us if the Department of Fisheries and Oceans, through the government, will reverse its decision and restore the funding for Dr. Rose's extremely valuable work on northern cod stocks?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have to take this question as notice as I am unaware of the facts.

In the meantime, questions were asked of me previously with respect to aquaculture in New Brunswick. I hope that honourable senators have noted that the Government of Canada has undertaken to invest an additional \$20 million in aquaculture in the province of New Brunswick. In addition, Senator Comeau spoke to me about crab fishers. As he is probably now aware, the Minister of Fisheries and Oceans, the Honourable Geoff Regan, will meet with representatives of the crab fishing industry.

Senator Comeau: Honourable senators, I thank the minister for that response.

To assist him in his investigation of the cuts in the funding of Dr. Rose, the excuse given for the cuts was apparently that the money is being redirected from northern cod to more valuable species such as crab and others. However, the only reason those species are more valuable now is that the northern cod fishery is in such a difficult and precarious position, which means that we should spend that money on northern cod to find out what happened 15 or 20 years ago. Funding for independent researchers such as Dr. Rose, who is widely respected and well known, should be restored.

Would the minister use his great powers of persuasion at the cabinet table, as I know he did regarding the aquaculture situation in New Brunswick and the crab situation in Nova Scotia, to have funding restored to Dr. Rose so that we can find out what happened to the northern cod stocks and try to restore that extremely valuable resource to Newfoundland and Labrador?

Senator Austin: Honourable senators, I will be happy to take Senator Comeau's representation to Minister Regan along with my inquiries on the situation.

NATIONAL DEFENCE

SEA KING HELICOPTERS— REFITTING FOR ASSIGNMENT IN AFGHANISTAN

Hon. J. Michael Forrestall: Honourable senators, I have a couple of questions for the Leader of the Government in the Senate, and I will ask whether he has a response to the question I asked yesterday about benefits accruing to former Joint Task Force Two soldiers.

My first question has to do with the Sea King Helicopters. Frankly, my worst nightmare has now come true. Can the Leader of the Government confirm that a number of Sea Kings — I believe eight — are being reconfigured at Industrial Marine Products in Halifax for use in Afghanistan?

Hon. Jack Austin (Leader of the Government): Honourable senators, in terms of the question regarding claims for benefits by JTF2 personnel due to injury, I have made inquiries and the story that appeared in the *Ottawa Citizen* yesterday was drawn to my attention. I will pursue those inquiries as aggressively as time permits.

With respect to the Sea Kings, as usual Senator Forrestall is ahead of my briefing material. However, I will again make inquiries with respect to the basis on which he has asked his question. The idea that the Sea Kings would operate in high altitudes in Afghanistan is rather striking.

SEA KING HELICOPTERS— PURCHASE OF USED EQUIPMENT

Hon. J. Michael Forrestall: Honourable senators, I appreciate the leader's concern, particularly about the Joint Task Force Two matter. I look forward to a response on that.

Yesterday, I received a delayed answer to a question about whether the government is considering the purchase of surplus G222s for fixed-wing search-and-rescue purposes. The response was a bit equivocal. I asked specifically whether we would be given assurance that we would not use these very old aircraft, invoking the Sea King.

I have been told that the Department of National Defence is now making inquiries about the purchase from the United States, Great Britain and Egypt, I believe, of some of their slightly used Sea Kings. I do not know how old they are as I have not had a chance to investigate that.

The Canadian Forces must be entitled to safe, good and reliable equipment. God knows, they deserve that at the least.

Could the Leader of the Government give me some indication, if he knows — and if he does not, could he find out — whether we are considering the purchase of used equipment from the United States? If so, before the government enters into any agreements, can the service record of the equipment that we intend to buy be made clear to Canadians so that there will be a chance for people to react?

Hon. Jack Austin (Leader of the Government): Honourable senators, that is a fair question. I do not know the basis for it, because I have not been briefed about the contemplation of any such purchase. However, the assurance that these aircraft are operable within the terms of their safety requirements should certainly be accepted without question.

Senator Forrestall: Honourable senators, I am due to leave here in a couple of years. If the Leader of the Government is still around and wants good staff to get him up to date with what is going on in defence, Dr. Joe Varner and I are available.

Senator Austin: Thank you.

FINANCE

CHANGES TO BUDGET 2005— USE OF SUPPLEMENTARY ESTIMATES TO INCORPORATE STATUTORY ITEMS FROM PREVIOUS FISCAL YEAR

Hon. Donald H. Oliver: Honourable senators, my question is directed to the Leader of the Government in the Senate and deals with the timing and content of estimates and supplementary estimates.

During our committee study of Bill C-48, Mr. Peter Devries of the Department of Finance assured the Senate that Parliament would be able to review the spending in Bill C-48 a few months after the fact when it was reported as a statutory item in "first Supplementary Estimates of 2006-07 which would be tabled in around November as per tradition."

Even if he is correct on this, Parliament still would be in the position of not having details of spending before it occurs, which is a key concern of the opposition. However, I question Mr. Devries' suggestion that we would be in a position to question this spending after the fact through supplementary

estimates, as these historically have only dealt with the current fiscal year. By their nature, they do not provide updated figures on statutory items from a previous year. As the Leader of the Government in the Senate knows, in Bill C-48 they pertain to payments in the previous fiscal year.

Could the leader advise the Senate whether there will be a change in the presentation of supplementary estimates to incorporate statutory items that were booked in previous fiscal years?

Hon. Jack Austin (Leader of the Government): Honourable senators, I regret that I cannot go beyond the evidence of Mr. Devries to the Standing Senate Committee on National Finance

Senator Oliver: Honourable senators, is there a change in policy suddenly to include numbers for previous years, which has never before been the case in supplementary estimates?

Senator Austin: Honourable senators, I will have to enquire.

SOCIAL DEVELOPMENT

EARLY LEARNING AND CHILD CARE PROGRAM— AVAILABILITY

Hon. Ethel Cochrane: Honourable senators, my question is directed to the Leader of the Government in the Senate as well, and it deals with comments recently made by the Minister of Social Development, Ken Dryden, on the federal government's proposed child care program.

• (1430)

The minister gave an interview to CBC Newsworld on July 8 in which he stated that the early learning and child care program would be available "to anyone and everyone." Seconds later, he said that the services provided under the program "won't be available in every centre."

Could the Leader of the Government in the Senate explain to us what the minister meant by these comments? How can this program be available to everyone but not be available in every centre?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am not familiar with the specific comments of Minister Dryden as referred to by Senator Cochrane. As honourable senators will know, the government is intent on delivering on its \$5 billion commitment over five years for a national system of early learning and child care.

Honourable senators will also know that the implementation of the program is the subject of federal-provincial agreements, and the administration of the program will be administered by provinces and territories. Beyond that, at this moment I cannot advise Senator Cochrane. However, I am intrigued by her question and I will make efforts to understand what Minister Dryden is suggesting.

Senator Cochrane: Honourable senators, on June 16, Minister Dryden said similar words to *The Globe and Mail* when he said that this plan would never be truly universal in scope. Yet, the government continues to claim that it will be accessible to everyone.

Could the Leader of the Government in the Senate tell us how the federal government can continue to justify this program to rural Canadian families who will have to subsidize child care services that are available only in urban centres; services that they have no hope of accessing?

Some Hon. Senators: Oh, oh.

Senator Austin: Honourable senators, there is much argument in the presentation of Senator Cochrane. I believe that the premise of her question is quite debatable.

While we are referring to *The Globe and Mail*, as Senator Comeau knows, I would direct the attention of honourable senators to the front-page article of Monday, July 18, with respect to the position of Canadians relative to Bill C-38. However, we will pass over that.

Senator St. Germain: How much did that advertisement cost you?

Senator Austin: In answer to Senator Cochrane, it is the intention of the federal government to make child care available through the provinces and their administration to Canadians who use child care facilities specifically, but it is not the intention of the government to make funding available for child care in private homes by parents, if that is what she was suggesting should be done.

Hon. A. Raynell Andreychuk: Honourable senators, I understand that the money in this new day care package is for registered day cares and understandable day care concepts, and that the money can be used to increase the number of spaces or it can be used to increase the very low wages of day care workers or it can be used to increase the quality of the space. Many day cares are in basements and so forth.

The dilemma is that to do all three there is not enough money in the next five-year tranche as contemplated. There is not enough money to do one. When we were travelling, as a committee, we were told that this will be the dilemma facing provinces. There is an expectation that there would be day care in day care centres. However, there is not enough money. Perhaps in 20 or 50 years there will be, but in the next five years sufficient money has not been allocated.

Senator Mercer: You have to start somewhere.

Senator Andreychuk: Why has the government put this suggestion out there as if it were a completed plan? They have raised the hopes of millions of Canadians that will not be fulfilled. Would it not have been better to indicate that this was the first step and, therefore, it would have been more logical and acceptable to Canadians?

Senator Austin: Honourable senators, this is the old problem of the glass being half empty or half full. There is a crying demand for the improvement of day care across this country, as has been demonstrated by the agreement signed by a number of provinces with respect to this program. A figure of \$5 billion over a five-year period is not an insignificant amount of money.

I cannot help but agree with Senator Andreychuk that there will never be enough money. The demands are enormous and important. However, Minister Dryden has made clear that this is not a one-time-only program.

The Government of Canada is quite prepared to move forward with further negotiations with the provinces, depending on Canada's fiscal capacity to continue to contribute. Notwithstanding all of that, this program must be considered a positive advance on the current situation.

AGRICULTURE AND AGRI-FOOD

REPORT ENTITLED EMPOWERING CANADIAN FARMERS IN THE MARKET PLACE

Hon. Leonard J. Gustafson: My question is to the Leader of the Government in the Senate. First, I wish to offer a compliment on behalf of all farmers for the recently opened border. I say this because I believe it was a joint effort. Especially in respect of the Senate Agriculture Committee, the minister has always carried our questions to cabinet. We now see that the border is open. We need to see more of that kind of thing happening in government.

Honourable senators, the long-awaited report on farm income prices from the parliamentary secretary, Wayne Easter, has been released. That report says that farmers, mainly from the grain industry, are going broke. Those who are covered by the marketing boards are doing quite well.

With respect to the recommendations and the findings contained in the report, what can we expect of the government by way of a renewed focus on the challenges that face Canadian agriculture?

Hon. Jack Austin (Leader of the Government): I thank the honourable senator for his comments with respect to the opening of the border for Canadian cattle. We spoke about that issue in the chamber yesterday. In particular, I tried to make clear that the actions taken before the Ninth Circuit Court in the United States to set aside the temporary injunction were based on science and the aggressive advocacy of the United States Department of Agriculture, supported by the Canadian Department of Agriculture. I thank him for that.

Senator St. Germain: Do not forget the intervenors!

Senator Austin: We will see about the intervenors. That will be dealt with on July 27. We will see how good the amicus crowd is in assisting in that regard.

• (1440)

With respect to the question regarding the just-released report of the Honourable Wayne Easter, member of Parliament for Malpeque and Parliamentary Secretary to the Minister of Agriculture and Agri-Food, as the honourable senator says, with the title *Empowering Canadian Farmers in the Marketplace*, the report outlines a number of recommendations that will have an impact on primary producers. However, the real issue, as Mr. Easter says, is the lack of balance and the lack of market power of agriculture, both nationally and internationally. He does note, as has Senator Gustafson, that supply management has proven to balance market power for those commodities within Canada, but for export-oriented commodities, supply management is not an option.

If honourable senators would allow me a moment, I would like to share some information with respect to the report. The question posed by Mr. Easter is as follows: Why have farm gate prices been falling while prices at the retail level are rising significantly, and in some cases dramatically? Why are the costs of farm inputs rising relentlessly while the market income of farmers has been so radically reduced? Why is the squeeze on farmers' incomes occurring not only in Canada but internationally as well?

Mr. Easter finds that:

Food retailers averaged a return of 12 per cent between 1990 and 1998. Agriculture and Agri-Food Canada (AAFC) reported that, "The profitability in the food retailing sector was realized despite the fact that the price of food rose more slowly than prices in general since 1990.

On the other hand:

Canadian realized net farm income has declined from over \$3 billion annually in 1989 to below \$0 in 2003.

I could provide additional information, but Senator Tkachuk does not want to hear any more about the agricultural situation in Canada. However, I am completely in accord with Senator Gustafson's concerns, as I have indicated many times previously.

AGRICULTURAL INCOME STABILIZATION PROGRAM—INEQUITIES

Hon. Leonard J. Gustafson: Honourable senators, I have a supplementary question. The Canadian Agriculture Income Stabilization program has not addressed the problem of the production margin of farmers. I will explain it this way. A farmer may have had good crops; his margin is high over the average and he gets a good return from the CAIS program. However, other farmers may have had three years of drought and are not getting a return. As far as I know, this issue has not been addressed. It is vital that this concern be addressed before the next crop year. In September, they will be filing their report for 2004. Does the minister have anything to tell us about whether the review committee has dealt with this problem?

Hon. Jack Austin (Leader of the Government): Honourable senators, as I previously reported in answer to a question by Senator Gustafson, the Ministers of Agriculture met this month. I do not have the date available to me. The question of CAIS and how the program works was on their agenda.

I know whereof Senator Gustafson speaks. It has not worked in a way that allows income support to many vulnerable farm producers.

HEALTH

CROSS-BORDER SALE OF PRESCRIPTION DRUGS

Hon. Marjory LeBreton: Honourable senators, my question is for the Leader of the Government in the Senate and concerns the recent announcement from the Minister of Health on the cross-border sale of prescription drugs. The minister says he intends to ban the bulk export of prescription drugs from our country. However, beyond that, he has been vague on other initiatives he says he intends to take. For example, a Health Canada press release dated June 29 states that the minister will strengthen the federal regulations related to the doctor-patient relationship and that a drug supply network will be established. No details were given on how he intends to do either of these things.

Beyond the upcoming ban on bulk exports, could the Leader of the Government in the Senate tell us the specifics of the minister's plan and when they will be presented to Parliament and to the Canadian public?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will make inquiries.

Senator LeBreton: Honourable senators, the minister says that the ban on bulk exports would not be permanent and would only kick in if there was a shortage in our supply. This means that there would have to be an identifiable problem with the drug supply for Canadians before bulk exports would be stopped, which would seem to defeat the purpose of this prohibition. Could the government leader tell us how this would work?

Senator Austin: Honourable senators, I will add that question to my inquiry.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I would like to call government bills in the following order: first, Bill C-2, followed by Bill C-23, Bill C-22, Bill C-38 and Bill C-48

CRIMINAL CODE CANADA EVIDENCE ACT

BILL TO AMEND—THIRD READING

Hon. Landon Pearson moved third reading of Bill C-2, to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act.

The Hon. the Speaker: Before I recognize senators wishing to speak, I point out that there is a longer time period for the first and second speakers, who are normally from the government and then the opposition. However, Senator Andreychuk wishes to speak first.

Hon. A. Raynell Andreychuk: I assure honourable senators that I will not be long. Senator Nolin, who was the opposition critic, supported the observations and the passage of this bill, which I simply wanted to place on the record.

I also wish to point out that contrary to what the *Ottawa Citizen* said about it being unusual to append observations, we often do so. In fact, the practice has become routine, certainly in the 12 years I have been here. When I was appointed, it was unusual to see observations appended to a report, but they are now a good, functioning process that we often use. Some senators might believe it to be a unique and undesirable practice, but I think observations are a way to signal concerns about a bill.

Honourable senators, there are difficulties with Bill C-2, which we have noted. Some of them may in fact be constitutional shortcomings. However, this is not the first time this issue has been before Parliament. Parliament has struggled with it in the past. I believe that if this bill errs, it does so on the side of protecting children; therefore, artistic freedom may be in jeopardy. However, the committee has noted that shortcoming. The committee has a keen sense of urgency in following this matter through, and I wish to support what it has stated.

Some of the witnesses, one in particular, noted that we should not be lulled into feeling that we have now protected children from pornography and that this bill is only one way of doing it. The government often reaches for legislation as an answer to ills, particularly the ills of children. We should know that this is a very pervasive, difficult issue, particularly with regard to new technologies, and I would trust that the government would continue to find ways and means to help children who find themselves with predators. We should be preoccupied with the protection of children and not simply believe that one piece of legislation will achieve it.

I am very pleased that the bill answers the political will of the people to do something in this area and to attempt again to change the law. I laud the committee for the struggle it went through to come to this decision, and I support it.

• (1450)

Hon. Senators: Hear, hear!

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Ouestion!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[Senator Austin]

DEPARTMENT OF HUMAN RESOURCES AND SKILLS DEVELOPMENT BILL

THIRD READING—DEBATE ADJOURNED

Hon. Bill Rompkey (Deputy Leader of the Government) moved third reading of Bill C-23, to establish the Department of Human Resources and Skills Development and to amend and repeal certain related Acts.

On motion of Senator Stratton, debate adjourned.

DEPARTMENT OF SOCIAL DEVELOPMENT BILL

THIRD READING—DEBATE ADJOURNED

Hon. Bill Rompkey (Deputy Leader of the Government) moved third reading of Bill C-22, to establish the Department of Social Development and to amend and repeal certain related Acts.

On motion of Senator Stratton, debate adjourned.

CIVIL MARRIAGE BILL

THIRD READING—DEBATE SUSPENDED

Hon. Serge Joyal moved third reading of Bill C-38, respecting certain aspects of legal capacity for marriage for civil purposes.

He said: Honourable senators, the meetings last week of the Standing Senate Committee on Legal and Constitutional Affairs, to which this chamber entrusted the study of Bill C-38, were an incredible experience. I know that some honourable senators who did not attend the meetings enjoyed the nice weather in the countryside or somewhere else with their families. I have to tell you that each and every member of the committee from both sides of the chamber, as well as those who are independent — and Senator Prud'homme attended all of the meetings — had an incredible experience. We are grateful to this chamber that entrusted us with the mandate to review the different aspects of Bill C-38.

I have to praise the commitment of all honourable senators, especially for the courtesy, attention, care and professionalism that the members on the opposition side, as well as on the government side, showed all through the process. There was a concern expressed by the Deputy Leader of the Opposition, the Honourable Senator Stratton, that the work of the committee had to be thorough, balanced and fair.

Honourable senators, we heard from 33 witnesses. They came from the highest levels of academe, from McGill University, Osgoode Hall, Calgary, Winnipeg and the University of Quebec. From the various churches we heard high-profile testimony through their representatives who, in all truth and frankness, expressed their deep conviction in relation to their respective faiths. As well, we heard from the spokespeople of the various groups that have been involved in this issue for so many years.

It is with a deep sense of gratitude that I remind honourable senators that some of our meetings were broadcast on CPAC, thanks to the request of Senator St. Germain that Canadians be able to watch the Senate at work.

Honourable senators, it was a privilege to be a member of the committee and to attend its meetings last week. I wish to express my sincere thanks to our colleague Senator Bacon, who chaired the committee with professional expertise. It was as a result of her background and experience that dates back many years to the time when she presided over the cabinet of the Quebec government that she was so capable in doing her work. I thank her for that. We all appreciate her commitment to the committee.

Hon. Senators: Hear, hear!

Senator Joyal: Honourable senators, I would like to review three issues with you this afternoon. First, as Senator Di Nino read in the presentation of his petition, should we not opt for a civil union concept instead of extending or recognizing the legal capacity of couples of the same sex to be bound in marriage, according to the definition of marriage? That is one of the first issues that each and every witness debated in the committee.

Second, I wish to review with honourable senators the right to religious freedom and conscience. This is a very serious issue. There are aspects that I would like to share with you on the basis of the testimony we heard last week.

Finally, honourable senators, as was said in the petition of Senator Di Nino, I wish to review with you the impact of this decision on Canadian society and, in particular, on the family unit.

Should we or should we not go for a civil-union type of institution rather than marriage? One of the first arguments that was put to us at second reading was that we should reserve marriage, according to the traditional definition, exclusively to couples of the opposite sex and create something different for people of the same sex which we could term "civil union." Honourable senators, it is easy to close oneself into what Gérard Pelletier once called the "trap of words." It was put to us that, traditionally, marriage was the state of being united to a person of the opposite sex as husband or as wife, in a consensual or contractual relationship recognized by law. That was the Webster online dictionary definition up until last year.

The second element in the 2005 definition of marriage, according to the same dictionary, is the state of being united to a person of the same sex in a relationship like that of a traditional marriage.

• (1500)

Let us look at how the *Oxford Dictionary*, 2005 edition, defines marriage. It is as follows:

The condition of being a husband or wife, the relation between persons married to each other; matrimony.

The term is now sometimes used with reference to longterm relationships between partners of the same sex. There is recognition in the dictionary that there is an evolution. It is the same in the *Encyclopaedia Britannica* that I have looked into. There is now recognition that the word "marriage" is defined in expansive terms. That is to say, in the world of lexicography, we are not prisoners of previous definitions. It is important to understand that because it is easy to state one's mind and say, "I have been told that marriage is between a man and a man, in a long-standing relationship of a contractual nature, so that marriage is all that." You just have to go through a dictionary and you will find five definitions of different meanings under one word. The word "concept" is not a frozen word or definition. Both the Webster and the Oxford dictionaries recognize that reality.

Let us come back to the question: Should we go on with a civilunion type of relationship because everyone would be happy with that? Those opposed would keep marriage for themselves and those who want to be united would be in a kind of institution that would be for them.

Honourable senators, this is a tricky approach. Let me remind you what both the *Washington Post* and the *Ottawa Citizen* told us in February of this year and in 2003, namely, "Just what the world needs: A high school for gay students." Think again: A high school for gay students. In other words, in the United States and in New York especially, the harassment of gay students is so strong — that is, the bullying, the aggression, the beating, the nickname calling — and the frustration of those students who are the object of that kind of treatment is so great that the New York Board of Education considered establishing a school that would be totally devoted to gay students. There, they would be happy. They would be together. They would have the capacity to be what they are and to express it without incurring the risk of being bullied, threatened and blackmailed. They would be in their own school.

Let me quote to you what was said about this. They said that "The way to emphasize that everyone, regardless of race, sexual orientation and gender is deserving of respect is to bring them together in the same environment and ignore their differences; not isolate them and stick labels on them and draw attention to their differences."

What would we have if we had a civil union for gays? It would mean that when you completed your passport form, there would be another category. You would be single, married or civil union. The same would apply when you went through customs, coming back from a trip. We all do that. We have a small slip distributed to us on the plane and there are categories of status. Immediately, if you are in a civil union, you would be singled out. The customs agent would know immediately that you are a civil union type of person. The customs agent would put his glasses back and would look at you a second time.

This concept of separating into two different institutions, honourable senators, is a tricky one. But it is more than that. It is wrong, conceptually, on a constitutional basis and it is wrong constitutionally in the definition of it. The courts in Canada, especially the Ontario Court of Appeal and that in B.C., have been eloquent on the nature of the possible distinction that would be implemented in dividing the institution in two. There would be a subsumption of marriage called civil union.

How did the Ontario Court of Appeal see that kind of option? Its 2003 decision, at paragraph 107, said:

In this case, same-sex couples are excluded from a fundamental societal institution — marriage. The societal significance of marriage, and the corresponding benefits that are available only to married persons, cannot be overlooked.

Further on, they state that "Exclusion perpetuates the view that same-sex relationships are less worthy of recognition than opposite-sex relationships. In doing so, it offends the dignity of persons in same-sex relationships." That is the conceptual definition.

What about the legal aspect? On this issue, the British Columbia Court of Appeal, at paragraph 156 of the 2003 decision in *Barbeau v. British Columbia (Attorney General)*, states that:

This court should not be asked to grant a remedy which makes same-sex couples "almost equal" or to leave it to governments to choose among less than equal solutions.

The Supreme Court of Canada, honourable senators, had to consider it, too, in the *Reference re Same-Sex Marriage* of last December. The court was quite clear on how it views the two concepts of marriage versus civil unions. The court stated quite clearly, in paragraph 33, that:

Marriage and civil unions are two distinct ways in which couples can express their commitment and structure their legal obligations. Civil unions are a relationship short of marriage and are, therefore, provincially regulated. The authority to legislate in respect of such conjugal relationships cannot, however, extend to marriage. If we accept that provincial competence in respect of same-sex relationships include same-sex marriage, then we must also accept that provincial competence in respect of opposite-sex relationships include opposite sex marriage.

The court was quite clear. The court goes on to state that, "the province of Quebec has established a civil union regime as a means for individuals in committed conjugal relationships to assume a host of rights and responsibilities —

Then there is a note in brackets: "(see the Act instituting civil unions in establishing new rules of filiation.)"

What did the court do there? They considered that five provinces have already legislated on some kind of concept of civil union relationships. In fact, the first province to legislate on this was Nova Scotia. In 2000, Nova Scotia was the first province to establish a registered domestic partnership scheme in Canada.

Senator Mercer: That is us.

Senator Joyal: That was Nova Scotia, in 2000. That is not marriage but a domestic partnership scheme. Quebec also adopted an Act instituting civil unions and establishing new rules of filiation in 2002.

There was then Manitoba. Manitoba adopted a Common-law Partners Property and Related Amendments Act. Manitoba also adopted some kind of concept or idea that would recognize, to a point, the same-sex relationship. Alberta, the last one, had a proposal that we discussed last week with witnesses. Alberta adopted the Adult Independent Relationship Act.

• (1510)

This act is very lengthy and complete. It deals with partnerships that are short of marriage. We have learned from the Supreme Court that the way to maintain equality is to give access to two kinds of couples in the same institution; otherwise a situation is created in which one group will have access and the other group will not.

Let me give honourable senators an example. We have two languages in this Parliament: "Je peux vous parler en français"; I can speak to you in English. The same institution is accessible in both languages. In fact, through the good service of Senator Smith and a motion introduced by Senator Corbin, we may recognize Aboriginal languages under some conditions later on this year. What does this mean? This means that in the same institution we have exactly the same status, the same rights and the same privileges.

Schools in New York are proposing a system reserved for gays and another for heterosexuals. What is the school system in the province of our respected colleague, the Honourable Leader of the Opposition? In New Brunswick there is a school system in French and one in English, but they are not barred or closed. One can go to either system. It is open. The system is permeable. There is a choice. One is not reserved for the francophones and one for the anglophones. Then you would be caught in a situation where you would have to master the language. There has to be permeability between the two languages.

Honourable senators, that is what this bill is all about. It maintains accessibility to the same institutions for same-sex couples and opposite-sex couples. Our committee dealt with this issue at length with the support of the witnesses.

The next major issue we addressed was religious freedom. The issue of religious freedom is pervasive throughout Bill C-38. It is mentioned in five different places in the bill — three of the "Whereas" clauses and two of the substantive clauses. It is mentioned in the context of the Supreme Court ruling on the definition of religious freedom and the freedom of conscience.

The Supreme Court has extensively dealt with the meaning and implications of the rights to freedom of conscience and freedom of religion. I will read to honourable senators what the Supreme Court has said in *Reference re Same-Sex Marriage* in relation to freedom of religion in paragraph 57:

The right to freedom of religion enshrined in s. 2(a) of the *Charter* encompasses the right to believe and entertain the religious beliefs of one's choice, the right to declare one's religious beliefs openly and the right to manifest religious belief by worship, teaching, dissemination and religious practice... The performance of religious rites is a fundamental aspect of religious practice.

The Supreme Court has been clear in the definition of freedom of religion or the right to freedom of religion.

In fact, the International Covenant on Civil and Political Rights is also precise and definitive on the scope of freedom of conscience and freedom of religion. There is a clear definition of the limits. Article 18, paragraph 1 of the covenant states:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

Article 18, paragraph 3, says:

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

I wish now to refer honourable senators to the 1993 report of the Office of the High Commissioner of Human Rights. Article 8 deals with the definition of those limitations:

In interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in articles 2, 3 and 26.

In other words, the freedom of religion that is recognized in regard to one's thoughts and beliefs is absolute. No one can be forced to adhere to a religion or think differently in terms of religious convictions and conscience. However, when it comes to the manifestation of religion, there are limits according to the rule of law and legislation, which are necessary to protect either public safety, order, health, morals or the fundamental rights and freedoms of others. Those are the elements included in section 1 of the Charter.

Honourable senators, the Supreme Court, in defining the extent of the freedom of religion, has protected the religious rights of those officers who celebrate marriage within a particular faith and refuse to celebrate or to preside over a marriage according to their own religious beliefs. Paragraph 58 of the Supreme Court ruling of December 2004 states:

It therefore seems clear that state compulsion on religious officials to perform same-sex marriages contrary to their religious beliefs would violate the guarantee of freedom of religion under s. 2(a) of the *Charter*. It also seems apparent that, absent exceptional circumstances which we cannot at present foresee, such a violation could not be justified under s. 1 of the *Charter*.

The court, in discussing sacred places of worship, went on to say:

The question we are asked to answer is confined to the performance of same-sex marriages by religious officials. However, concerns were raised about the compulsory use of

sacred places for the celebration of such marriages and about being compelled to otherwise assist in the celebration of same-sex marriages. The reasoning that leads us to conclude that the guarantee of freedom of religion protects against the compulsory celebration of same-sex marriages, suggests that the same would hold for these concerns.

The court is quite clear that religious officials cannot be compelled to celebrate same-sex marriage, no more than a church or religion of whatever doctrine can be compelled to rent or allow its premises to be used in the celebration of marriage.

The Ontario government has adopted a bill that is also quite clear in that context. The bill is entitled "An Act to amend various statutes in respect of spousal relationships" and was adopted in March 2005 in the Ontario legislature. It amended 73 different statutes. I will refer to subsection 18.1(1), which reads:

The rights under Part I to equal treatment with respect to services and facilities are not infringed where a person registered under section 20 of the *Marriage Act* refuses to solemnize a marriage, to allow a sacred place to be used for solemnizing a marriage or for an event related to the solemnization of a marriage, or to otherwise assist in the solemnization of a marriage, if to solemnize the marriage, allow the sacred place to be used or otherwise assist would be contrary to,

- (a) the person's religious beliefs; or
- (b) the doctrines, rites, usages or customs of the religious body to which the person belongs.

• (1520)

It is clear, honourable senators, that five provinces have adopted similar statutes. In fact, in the Quebec Civil Code, there is a similar provision in section 521(2) for the civil union:

No minister of religion may be compelled to solemnize a civil union to which there is an impediment according to the minister's religion and the discipline of the religious society to which he or she belongs.

There have been cases, we have been informed, of civil commissioners who have refused to celebrate civil marriages. Honourable senators, their rights are protected by the statement made by the Supreme Court that no one should be compelled to act in a way that is contrary to his or her belief. In fact, there is long-standing jurisprudence about that aspect of the reality that is enshrined in the Charter of Rights and Freedoms at section 24 and in many of the provincial human rights codes. If a provincial civil commissioner does not want to celebrate a civil marriage because he or she holds a deep belief or conviction and this is contrary to his or her faith, he is exactly in the same position as a judge in a court who would not be part of a divorce procedure because divorce is contrary to his or her belief. That does happen. What is the solution when that happens? The solution is essentially the obligation and the duty to accommodate. What is the duty to accommodate? It is not to deny the rights to celebration, the rights to the decision on a divorce or the

endorsement of the divorce by the court. It is the right, essentially, to have an officer perform the marriage or the divorce. This right has been the long-standing decision of the Supreme Court of Canada in relation to infringement of one personal right in relation to discrimination.

The Supreme Court in British Columbia Public Service Employee Relation Commission, known as the *Meiorin* case in 1999, clearly stated: "If the prima facie discriminatory standard is not reasonably necessary for the employer to accomplish its legitimate purpose or, to put it another way, if individual differences may be accommodated without imposing undue hardship on the employer, then... the employer has failed to establish a defence to the charge of discrimination."

Its application in its existing form is reasonably necessary for the employer to accomplish its legitimate purpose without experiencing undue hardship. In the conclusion, the result of the *Meiorin* decision is that human rights legislation in every jurisdiction across the country shall be interpreted to this effect. In particular, employers may not discriminate unless they can demonstrate the reasonable necessity of doing so, including that they could not have reasonably accommodated the employee.

This is essentially the system at work when the civil commissioner feels that he or she is aggrieved because he or she is requested to perform, solemnize or be witness to a same-sex marriage. What did the Minister of Justice do after the ruling of the Supreme Court? The Minister of Justice wrote to all his provincial and territorial counterparts, and drew their attention to the statement made by the Supreme Court of Canada in relation to the protection of religious freedom. The Minister of Justice took the initiative on the issue so there is a common and shared approach in relation to the respect of religious diversity.

We all know that religious diversity is a characteristic of this land. There are 31 different religions in Canada. Some churches prohibit interfaith marriages. Some religions prohibit the marriage, for instance, in the Muslim faith, of a Muslim woman to a Christian man. Some churches prohibit the marriage of divorcees. If you look into the doctrine or the prescription of many churches, their approach to marriage varies almost endlessly. They all have different approaches that have evolved through the years. They have established their rules according to their own beliefs and their own interpretation of scripture. The purpose of civil marriage is, in fact, to afford to anyone who feels that he or she cannot comply with these prescriptions the access to civil marriage. That does not prevent the person from having a religious marriage. The bill does not prohibit any of that right of any of the churches or any person in Canada. It is clearly stated in clause 3 of the bill, and I quote:

It is recognized that officials of religious groups are free to refuse to perform marriages that are not in accordance with their religious beliefs.

Honourable senators, this is a federal bill, and solemnization of marriage is a provincial responsibility. The Supreme Court has been clear on that. However, I think that it is up to the Minister of Justice to show leadership and to show how to approach this issue. The federal Parliament, you as a Senate chamber and the

other place, cannot legislate on behalf of the provinces on this, but what is signalled in the bill is that to hold that marriage too is the union of one man and one woman in the context of the traditional definition is not something that, at the federal level, should incur any prohibition or any limitation. It is clause 3.1:

For greater certainty, no person or organization shall be deprived of any benefit, or be subject to any obligation or sanction, under any law of the Parliament of Canada solely by reason of their exercise, in respect of marriage between persons of the same sex, of the freedom of conscience and religion guaranteed under the *Canadian Charter of Rights and Freedoms* or the expression of their beliefs in respect of marriage as the union of a man and woman to the exclusion of all others based on that guaranteed freedom.

We say in the federal legislation that as far as the federal legislation is concerned, as extensive as the federal legislation is concerned, no person shall be deprived of any of his or her rights and should not incur any sanction and should not be under any obligation to perform an act that would be contrary to the expression of his or her belief in relation to the definition of marriage.

In other words, this Parliament, as far as its constitutional responsibility is concerned, is signalling clearly what we as a Parliament feel are the rights to freedom of conscience and religion of any citizen in relation to federal competence. The fact that provinces are on the way to recognizing the same kind of protection is in the true spirit of the Charter of Rights and Freedoms, because, honourable senators, the Supreme Court of Canada, all through its decisions, has been consistent in its way of interpreting and involving itself in the doctrine of the church. The most recent case was last summer, 2004, the *Amselem* case, involved the Jewish faith and the possibility for Jewish persons to establish in the context of the prescription of the Holy Scripture of the Jewish faith. The court said, at paragraph 50, Justice Iacobucci speaking:

• (1530)

In my view, the State is in no position to be, nor should it become, the arbiter of religious dogma. Accordingly, courts should avoid judicially interpreting and thus determining, either explicitly or implicitly, the content of the subjective understanding of religious requirement, "obligation", precept, "commandment", custom or ritual. Secular judicial determination of theological or religious disputes, or of contentious matters of religious doctrine, unjustifiably entangle the court in the affairs of religion.

In conclusion, the court should refrain from that. There is no way that one can be afraid that the rights of freedom of religion and conscience are not fully recognized in our jurisprudence in the interpretation of the Charter, in particular section 2(a). In dealing with the religious issue, the court determined that the first issue was to let the church do its own thing, to respect that and to not pronounce on the accuracy for a prescription within one's church. Essentially, the court stated that last summer in the *Amselem* case I quoted.

Honourable senators, I would like to conclude with a few words on the impact of Bill C-38 on children because the matter has been raised properly here and at committee. We should approach it in the context of what the Canadian family is today. We must realize that the Canadian family today is multiple and complex. The view that a family consists of a father, a mother and two or three children is part of the Canadian reality but it is not the dominant reality of Canada. Allow me to cite statistics from Statistics Canada: 20 per cent of families are single parent; there are 1,300,000 single-parent families out of 8,300,000 families in Canada; there are 1,200,000 families in common-law unions; and the number of recomposed families of two parents that have been divorced and reunited in one way or another almost equals the number of single-parent families.

Honourable senators, this is the reality.

At this time last year, the house adopted, almost unanimously, a bill sponsored by Senator Morin and Senator Keon. I checked the record because I wanted to identify senators' preoccupations in respect of children created under the Assisted Human Reproduction Act. Never in the record was a concern raised about filiation — the right to know the identity of the donors in the assisted human reproduction process. That matter is left to the clinics, as honourable senators will recall. During consideration of Bill C-38 at committee, two witnesses and one senator expressed concern about the identity of the filiation. Should we not give the child of parents who seek assisted reproduction the right to know his or her origin? Some provinces have legislated in that respect, which falls under civil and property rights, to not allow filiation. In respect of filiation of children born of medically assisted procreation, article 542 of the Civil Code of Quebec, adopted by the Quebec legislature two years ago, states: "Nominative information relating to medically assisted procreation is confidential.'

At least one provincial government has taken a stand on this. Does this mean that we are barred from discussing the issue? Not at all, honourable senators, because in the wisdom of the Senate, we have provided for such. I quote section 70 of the Assisted Human Reproduction Act: "The administration of this Act shall, within three years after the coming into force of section 21, be reviewed by any committee of the Senate, the House of Commons..."

Honourable senators, we will have the opportunity to look comprehensively at the concern expressed by two witnesses and one senator. We will have statistics, figures and other studies to assist us in our considerations because the bill is one year old. Honourable senators know how many years we have waited for that bill. It has been looming for close to five years since it was introduced in Parliament.

There is more to Bill C-38 than the differences of family units that we observe in Canada today. We heard witnesses speak to the reality of gay children who, in the course of their education in the school system, find themselves confronted by the majority. At committee, Professor Ian Kroll, a psychiatrist from the University of Calgary, testified that gay children who recognize their sexual identity will be five to six times more likely than their heterosexual classmates to be targets of violence at school or when travelling to

and from school; that because of negative attitudes they are twice as likely to feel unsafe; that because they feel alienated, they are more likely to use high-risk drugs later in life; and that they are three times more likely to attempt suicide than other children in school. That is the reality of children today. If we are to talk about children in the context of the bill, then we have to take that reality into account.

In respect of the family, we heard important testimony at committee that I will relate in conclusion. Last June, the Canadian Psychological Association —

The Hon. the Speaker: I am sorry to interrupt but the honourable senator's time has expired.

Senator Joyal: May I ask leave?

An Hon. Senator: Five minutes.

Senator Joyal: I will do my utmost to finish in five minutes, honourable senators.

The Canadian Psychological Association needs no explanation as to the credibility of its professional members who say that homosexuality in and of itself is not a psychological problem or disorder and has not been considered so by the professional mental health community for some 30 years. Same-sex couples compare on measures of relationship quality. Lesbian and gay parents are as likely as heterosexual parents to provide supportive and healthy environments for their children. The development of sexual identity, personality and social relationship develops similarly in children of homosexual and heterosexual parents. The belief that gay and lesbian adults are not fit parents or that the psychosocial development of the children is compromised has no basis in science. Our position is based on the review representing approximately 50 empirical studies and at least another 50 articles and book chapters, and does not result from the results of any one study. These articles appeared in such journals as Developmental Psychology, The Journal of Child Psychology and Psychiatry, American Psychologist, Marriage and Family Review, American Journal of Orthopsychiatry, et cetera.

• (1540)

The science — inasmuch as it is a science — concludes that the greater risk for the children is the fact that although the sexual orientation of the parent does not result in psychological impairment in children, the stigma and isolation these families may experience as the result of public and systemic prejudice and discrimination may cause distress. In other words, it is the harassment, the isolation, the targeting, the labelling, the depiction that oh, yes, but you are gay or you are a lesbian. This is, really, honourable senators, the stigma that this bill fights.

Let me conclude by saying that I was here in Ottawa, as were many of you in the last weeks, and I invite you to visit the Canadian War Museum. I hear you ask: What does the war museum have to do with civil marriage? Let me read something to you that I read in an Ottawa guide about what to see and do in Ottawa; I have the French version:

[Translation]

On display in this museum are thousands of military artifacts, including a number of impressive paintings. One of the most curious items on display is a machine that was nicknamed "the fruit sorter" or "fruit machine."

[English]

"The fruit sorters," and fruit in slang means fag, queer.

[Translation]

During the 1960s, the RCMP investigated more than 8,000 gay and lesbian individuals. This period of "gay hunting" was in large part inspired by U.S. Senator Joseph McCarthy's persecution campaign against communists and homosexuals, among others.

One of the ways of determining a person's homosexual tendencies was to use this so-called "fruit machine", which measured physiological reactions when the subject was exposed to supposedly homoerotic stimuli.

The federal government had contracted a researcher from Carleton University in Ottawa to design such a device, but opted instead for an American model, the one now on display in the museum. During that period, nearly 150 lesbian or gay federal public servants either resigned or were dismissed.

[English]

Honourable senators, this is our past.

What is the meaning of the Charter? The meaning of the Charter is remedial and purposive. It is remedial because it is there to right a wrong, as much as it is there to right the wrong done to the Aboriginal people in the residential schools. You could be an Aboriginal but you could not speak your language; you could not show your religion or dress as an Aboriginal; and if you acted as an Aboriginal, you would be punished.

This bill is about restoring the dignity of some human beings that we, as a country, as a government, have chased, humiliated, destroyed their lives and, in some cases, have pushed to suicide.

The Hon. the Speaker: I regret to say that the 45 minutes of Senator Joyal, as extended by five, have expired at the time he concluded.

Hon. Gerry St. Germain: Thank you, Your Honour. Honourable senators, I will not go as far as Senator Joyal in regard to the proceedings of the committee. However, I concur with him that civility was the byword, and respect was maintained throughout. The hearings were thorough, balanced and fair, as was asked by the Deputy Leader of the Opposition.

There were 33 witnesses. It was time-consuming and often I wished that we had more time and could spread it out a little bit more so that we could have possibly understood better. I also compliment Senator Bacon for her patience and leadership in conducting a good committee hearing.

Honourable senators, I rise today to speak at third reading on Bill C-38, the civil marriage bill. At the outset of my remarks, I am compelled to say that on such a fundamental issue affecting our society, we have not spent sufficient time examining the ramifications of this legislation.

The government has been very clear in this place that no amendments would be accepted; pass the bill as is. I believe many will regret passing this legislation as it is.

Bill C-38, as written, redefines the institution of marriage as mankind has always known it. Bill C-38 is a political response to a government-engineered inequity in the accessibility of social and legal benefits for certain types of families and cohabitation relationships. The Law Review Commission report entitled "Beyond Conjugality" I believe aptly drove to the heart of these inequities in these social relationships.

We can take any issue and break it down into bite-sized chunks and find a way to resolve inequity and injustice, but the final analysis must include stepping back and ensuring that there is a holistic cure; and, with some matters, protecting the whole is more important than its parts.

I believe Bill C-38 is not the best cure for providing social equity and justice to homosexual couples. The Bill C-38 solution, while possible providing justice to one group of people, takes away justice from another group. I believe that marriage, the matrimonial covenant by which a man and woman establish between themselves a partnership for the whole of life is, by its nature, ordered towards the good of the spouses and the procreation and education of offspring.

It is not only those who have a religion who recognize marriage in this way. The present legal definition of marriage, as well as the dictionary definition, recognizes marriage as the relationship or legal commitment of one man and one woman to the exclusion of all others. I know Senator Joyal has put forward a different case on the dictionary, but in this definition, something more is presumed; namely, that marriage has a two-fold purpose: the good of the spouses and the procreation and education of offspring, the children.

Marriage as a natural community had existed long before the state legalized it or the dictionary defined it. The state took its part in marriage for the sake of order and to protect the good of the spouses and the children who are the fruit of this relationship. The main concern of the state is child-centred, knowing that, as the hope of the future of civil society, the child needs to grow in a stable and loving environment.

The same-sex relationship and the heterosexual relationship are not the same. They are two different realities, since they do not have the same purpose. The two relationships cannot be compared as being equal, since their purposes are not, and cannot be, the same.

It is not a matter of intolerance, because no one wants intolerance, or a lack of respect — we all want respect — or human rights or injustice. It is a matter of the truth of marriage; and to recognize that, rather than weaken the family life, there is a need to preserve and strengthen the family for the sake of society as a whole. Society cannot, in the qualities of compassion and tolerance, be deceived by compromising the truth.

Honourable senators, Canadians have heard and the Senate has heard from all sides of the debate on this bill. We have heard a wide variety of views as to how marriage and other forms of relationships should be recognized in our society. Even though some of our brightest minds have said that marriage is much more than the simple living together, as in companionship, the government has clearly decided that it wants to force this bill through, and thus its invocation of closure.

While the government is clear on the end that it wants — legally recognized same-sex marriage — and while perhaps a majority of senators favour this end, there have been qualms raised on all sides about the cost of achieving this end. Most important, there have been grave concerns raised in debate and in the hearings before committee, both here and in the other place, about the implications of the passage of Bill C-38 for religious freedom and freedom of conscience.

There are reasons, and I think strong and persuasive ones, why some senators oppose this bill in principle and feel that society should continue to recognize the traditional common law definition of marriage as the union of one man and one woman.

• (1550)

I will outline some of these reasons in a minute, but I also understand the convictions and principles of those on the other side who believe in the principle that same-sex unions should be recognized as legal marriages. However, I would urge even senators in that group to vote against this bill on the grounds that it does not provide enough protection to those who believe, in good faith and conscience, and often on religious grounds, in the other principle.

I will first explain why I believe that this bill is wrong in principle and why Canada as a society should continue to uphold the traditional definition of marriage.

As I mentioned earlier, I believe that the institution of marriage is intrinsically connected with the unique capacity of heterosexual couples for procreation and that the state's interest in marriage is in ensuring that children are raised in stable, supportive homes and families based on the relationship between a mother and father.

The words of Justice La Forest have been quoted before, but it is important to remember that these words reflected the subtle law, the basic beliefs of almost all Canadians just a few short years ago, and that they have never been gainsaid or overturned by any subsequent Supreme Court judgment. He said:

Marriage has from time immemorial been firmly grounded in our legal tradition, one that is itself a reflection of long-standing philosophical and religious traditions. But its ultimate raison d'être transcends all of these and is firmly anchored in the biological and social realities that heterosexual couples have the unique ability to procreate, that most children are the product of these relationships, and that they are generally cared for and nurtured by those who live in that relationship. In this sense, marriage is by nature heterosexual.

The notion that marriage is by nature heterosexual and based on the capacity of a man and a woman to have and raise children is not to deny that there are other forms of families — single-parent families, extended families and so on — that also do a good job of raising and providing for their children. This is not to deny that homosexuals can be loving parents to their children, when they have children. However, the sociological evidence is clear that, generally speaking, the best situation for children is one in which they are raised by a married mother and father, and it is to maximize the number of children being raised in this situation that the state has historically supported the traditional institution of marriage.

Honourable senators, if the government's bill is accepted, the Parliament of Canada will be saying that marriage is no longer linked to the heterosexual capacity for procreation or to the sociological and psychological reality that children flourish the best when they are raised in an intact family headed by a married mother and father. We will be saying that marriage is not about providing for the future of children in society but about serving the needs of adults in close personal, emotional and sexual relationships.

The influential 2001 report of the Law Commission of Canada implied this in its choice of title and subtitle. The report is called Beyond Conjugality: Recognizing and Supporting Close Personal Adult Relationships. If this bill passes, we will have indeed, as a country, moved beyond conjugality.

Advocates of same-sex marriage ask what heterosexual couples will lose by adding same-sex couples to the institution. They will lose the knowledge that the government recognizes their unions as conjugal unions, unions that are, at least potentially, procreative and are supported by the state in order to provide a home environment for the raising of any children of this union. Suddenly the millions of married couples in Canada will no longer be recognized as being in conjugal, procreative, intergenerational unions, unions that are the foundation of society and the basis of its continuity. Instead, all marriages, homosexual or heterosexual, will become legally sanctioned, personal, emotional relationships that have no intrinsic purpose beyond the welfare of the two individuals involved.

Honourable senators, McGill medical and legal ethicist Dr. Margaret Somerville makes this is point eloquently in her book, *Divorcing Marriage*, when she says:

The crucial question is: Should marriage be primarily a child-centred institution or an adult-centered one? The answer will decide who takes priority when there is irreconcilable conflict between the interests of a child and the claims of adults...

Those who believe that children need and have a right to both a mother and a father, preferably their own biological parents, oppose same-sex marriage because...it would mean that marriage could not continue to institutionalize and symbolize the inherently procreative capacity between the partners; that is, it could not be primarily child-centred.

Those who believe that marriage is primarily about two adults' commitment to each other support same-sex marriage. They focus on the identical nature of the commitment between partners in a same-sex marriage and an opposite-sex one, to establish discrimination in excluding same-sex partners from marriage. This argument for marriage is primarily adult-centred.

In short...accepting same-sex marriage...means abolishing the norm that children...have a prima facie right to know and be reared within their own biological family by their father and mother. Carefully restricted, governed, and justified exceptions to this norm, such as adoption, are essential. But abolishing the norm would have a far-reaching impact.

The Senate must make an important and principled choice. There are those who believe in good conscience that marriage is primarily about the emotional and personal bond between two consenting adults, and it is understandable that those who feel this way will favour same-sex marriage. There are also those who feel that marriage is and should remain a sociological institution oriented toward procreation and child raising and, understandably, most people in this group will favour maintaining the traditional definition of marriage.

However, I would urge those honourable senators who believe, in good faith, in the adult-centred concept of marriage, who believe that it is fundamentally about the rights of two individuals in a close personal relationship, to reject this legislation as it currently stands, if only to send the message to government that we need to take these concerns about the implications for religious freedom and the freedom of conscience of this bill seriously.

The bill purports to provide protection to religious freedom, but many have argued passionately and persuasively that these so-called protections will not work, that the rights of religious believers and others who conscientiously oppose same-sex marriage will be at the mercy of the courts and the human rights tribunals that so far have tended to see the equality rights of same-sex couples as trumping freedom of religion or freedom of expression.

Bill C-38 includes a supposed protection for religious officials who do not wish to perform same-sex marriages, stating that they are free not to perform marriages that are not in accordance with their religious beliefs. It must first be stated that religious freedom is already in a weakened state if we have to specify this. What kind of society would we be living in if the state could force religions to perform rituals and sacraments that went against their conscientious beliefs? Furthermore, as many people have pointed out, the federal government is not in a position to give this guarantee even if it wants to.

In its reference case to the Supreme Court of Canada, the government asked whether its draft legislation was constitutional. The court replied that, while Parliament was free to legislate as to the definition of marriage, it had no jurisdiction over who could or could not solemnize marriage, as I believe Senator Joyal

pointed out. Therefore, clause 2 of the draft bill, which is almost identical in wording to clause 3 of Bill C-38, was ruled to be ultra vires Parliament. In pith and substance, this clause relates to those who may or must perform marriages and falls within the subject matter allocated to the provinces under section 92.12. Therefore, the Supreme Court of Canada has already found clause 3 of this bill to be outside the jurisdiction of Parliament. For cosmetic, face-saving reasons, the government has insisted on keeping that in the text of the bill.

• (1600)

It is true that the Supreme Court, in its reference, later ruled that the Charter should probably provide protection to religious officials against being forced to solemnize marriages that they disagreed with. This government legislation does absolutely nothing to further this protection. We already know that, in several provinces, civil marriage commissioners have lost their licences because of their religious or conscientious objection to same-sex marriage. A marriage commissioner from Newfoundland, who appeared before us in committee, said that she was forced to resign. This bill will do nothing to help marriage commissioners.

Many of the areas in which religious freedom is most likely to be affected after the passage of Bill C-38 are under provincial jurisdiction. Some provinces have already ruled that civil marriage commissioners must agree to perform same-sex marriages or lose their licences. Provincial human rights commissions are being approached about public accommodation cases such as attempting to force a Knights of Columbus Hall to provide its facilities for a same-sex marriage in British Columbia; or an evangelical printer in Toronto, Scott Brockie, being forced to print materials for a same-sex advocacy organization; or bed and breakfast owners in Prince Edward Island shutting down their businesses rather than being forced to accept same-sex couples as guests. These incidents will likely increase after the bill is passed. At a minimum, we should wait to ensure that all provinces bring in laws to protect the rights of those who conscientiously object to same-sex marriage.

In the debate and committee hearings in the other place, the objection was frequently raised that minimum protections for religious officials, who are outside of federal jurisdiction in any event, would provide no real protection to the rights of those who conscientiously oppose same-sex marriage. In response to repeated criticism, the government finally yielded and accepted two amendments, which it states should provide greater protection to those who support the traditional definition of marriage. The first amendment, now clause 3.1, states:

For greater certainty, no person or organization shall be deprived of any benefit, or be subject to any obligation or sanction, under any law of the Parliament of Canada... in respect of...

— their religious or conscientious beliefs in the traditional definition of marriage.

The second amendment to Bill C-38, now clause 11.1, attempts to provide similar protection, specifically to religious charities with respect to their charitable tax status.

These amendments are welcome. However, there is a problem. In both cases the amendments purport to protect people in the exercise of their freedom of expression of views favouring traditional marriage under the Canadian Charter of Rights and Freedoms. This sounds positive, but the courts have already ruled that where there is a collision of rights under the Charter, it is up to the courts to strike a balance between those rights. This bill may create a collision of rights between religious freedom and same-sex equality.

At paragraph 52 of the Reference re Same-Sex Marriage decision, the Supreme Court stated:

The right to same-sex marriage conferred by the *Proposed Act* may conflict with the right to freedom of religion if the Act becomes law, as suggested by the hypothetical scenarios presented by several interveners.

It is clear that legislating in favour of same-sex marriage may create a conflict of rights with those who oppose it on religious or philosophical grounds.

The court went on to say:

However, the jurisprudence confirms that many if not all such conflicts will be resolved within the *Charter*, by the delineation of rights prescribed by the cases relating to s. 2(a). Conflicts of rights do not imply conflict with the *Charter*; rather the resolution of such conflicts generally occurs within the ambit of the *Charter* itself by way of internal balancing and delineation.

This means two things, honourable senators: First, in the two clauses purporting to protect religious minorities by saying that they will not be penalized for exercising their Charter rights, the proposed legislation is adding nothing to the rights that were already there under the Charter. Second, the legislation still allows for a potential conflict of rights. In any such conflict, the rights of religious groups or others who object to same-sex marriage will have to be balanced against equality rights.

How have these rights been balanced in the past by the courts, honourable senators? In the *Trinity Western* case in 2001, the Supreme Court ruled:

Neither freedom of religion nor the guarantee against discrimination based on sexual orientation is absolute. The proper place to draw the line is generally between belief and conduct. The freedom to hold beliefs is broader than the freedom to act on them.

It would seem that while it may be acceptable in Canada, after Bill C-38 passes, to believe that the traditional definition of marriage is best, it may be unacceptable to take any action in accordance with that belief.

One case involving religious expression that went to the Ontario Court of Appeal was the case of *R. v. Harding*. The Court of Appeal found that for the crime of promoting hatred against an identifiable group, the fact that an apparently hateful message is based on sincere religious belief is no defence.

As the trial judge ruled, in words cited by the Court of Appeal, the appellant was:

...entitled to his opinions on religious subjects, and he is entitled to publicly attempt to convince others of the correctness of his beliefs. His pamphlets and message do contain opinions of religious belief which he appears to sincerely hold...

However,

Although expression of religious opinion is strongly protected, this protection cannot be extended to shield this type of communication simply because they are contained in the same message, and the one is used to bolster the other. If that were the case, religious opinion could be used with impunity as a Trojan Horse.

The appellant in this case had published admittedly extreme statements against Muslims. I have no wish to defend his statements. However, it is of concern that the courts have ruled that sincere religious belief is not a defence against hate crime prosecution.

It is of concern that the Supreme Court has said that Bill C-38 could create a conflict of rights between freedom of religion and the equality rights of same-sex couples, and that it is up to the courts to determine the correct balance of these rights. Will this mean that 5 or 10 years from now a pastor, Catholic priest or school counsellor will find themselves the target of hate crime litigation simply for making the kinds of statements about same-sex marriage and traditional marriage that have been made in the Senate or the House over the past few months by those opposed to the legislation? Will it be considered hateful to quote from the Book of Romans from the Bible, or the catechism of the Catholic Church?

Religious rights extend beyond the ceremony of marriage. What about the rights of faith practitioners to speak publicly about marriage as they know it? What about the confusion of their children on being taught one way by the church and home and told otherwise in other areas of their life?

We know that the Saskatchewan Human Rights Commission has found an advertisement that did nothing but quote Bible verses to be hateful. We know that the Roman Catholic Bishop of Calgary has already been threatened by an action before the Alberta Human Rights Commission. Where will courts and human rights submissions go in the future? We do not know, honourable senators. This legislation, unfortunately, does little to clarify the matter.

It is not good enough to provide a protective clause that simply says that people are free to exercise their Charter rights to freedom of religion and expression when the courts have already said that these rights can conflict under the Charter with equality rights and it is the courts that will perform the internal balancing act.

It is not good enough to say that this bill protects freedom of religion when the courts have already ruled that the hate crimes law does not defend speech based on sincerely held religious belief. As the Roman Catholic Primate of Canada, Cardinal Marc Ouellet of Quebec City, said before the committee last week:

Already the appeal to conscience in any matter pertaining to homosexuality risks being dismissed as "homophobia," these attempts to intimidate persons who do not share the state's vision of marriage may well multiply after the adoption of Bill C-38. Once the state imposes a new standard affirming that homosexual sexual behaviour is a social good, those who oppose it for religious motives or motives of conscience will be considered as bigots, anti-gay and homophobes and then risk prosecution.

• (1610)

This bill should be rejected, not simply because it changes the traditional definition of marriage, which I, and I think a majority of Canadians, believe has served us well, but because it risks penalizing and even criminalizing the beliefs of those who continue to believe in the traditional definition of marriage after the bill has passed.

The government's attempts to protect religious freedoms were reluctant and are too weak. We should reject this bill, go back to the drawing board and come up with new legislation that provides a better balance between the traditional definition of marriage and the rights of other couples.

Even if we persist in legislation in favour of same-sex marriage, I would argue that we need a much more robust defence of religious freedom and guarantees that the provinces will respect religious freedom before this bill becomes law.

Furthermore, what about studies on the impact of Bill C-38 on the nuclear heterosexual family? What about the impact on children? We know nothing about these things. The experts have told us that no studies have been done in these areas.

If and when this bill becomes law, our country will go through a change never experienced before. Bill C-250 put us on a slippery slope of changing completely how we determine our moral values as a society.

Our society was built and grew to be a great country because it was based on Judeo-Christian values. Yes, we are more of a mosaic today, but people seek to bring their families and children here because of our traditional value system. Why should we jeopardize such a great nation built on these values just to carry out the political agenda of a government that has lost its moral compass?

Honourable senators, we must consider the possible negative impact this will have on the whole of our society.

The minister made a number of comments at the committee that need to be clarified to Parliament and the public. He said that the bill does not threaten religious freedom. He went on to say—and I am paraphrasing—that the opposite-sex definition is inconsistent with the fundamental guarantees of equality in the Charter; that freedom of religion is not the weaker sister to equality, and that whenever courts and tribunals are faced with a clash between equality rights and religious rights, equality rights will not trump religious rights.

He went on to say that the freedom of religion is the "firstness" of our freedoms, and that it must be given an expansive interpretation. Please tell me what that means and we will all be enlightened, as Senator LeBreton says. They are just words.

The minister went on to say that specific protections in terms of civic services would have to be provided in law by the provinces, and that Bill C-38 was specifically written and amended to provide added assurance that the federal government will uphold the guarantees of the Charter.

As reported in *The Globe and Mail* this morning regarding marriage commissioner Orville Nichols in Saskatchewan, the minister has again promised that religious rights will not be trumped by the equality provisions of the Charter that have made same-sex marriage a legal reality. However, the truth of the matter is that marriage commissioners are being persecuted because they are standing up for their religious beliefs. The minister says that solemnization is provincial jurisdiction and that he cannot interfere; he has appealed to his provincial counterparts to make provisions for civic officials. The article states:

If there is a conflict between religion and equality rights, he said "there is a principle of reasonable accommodation..."

That is another set of words that I do not think really clarifies the situation

According to The Globe and Mail, Mr. Cotler said:

One should be able to find a way of accommodating those who for reasons of conscience feel they don't want to perform a same-sex marriage.

That is the principle of reasonable accommodation.

The government's statements of Charter protections and the consequences of Bill C-38 are simply not meshing with what is happening on the street, out there in the real world. This often happens, and it goes to the very core of what our country stands for.

The minister clearly said at committee that no rights in the Constitution or the Charter are absolute. If this statement does not cause concern in the minds of Canadians, I do not know what will.

However, I do know this: A bill that is not yet law has caused a great deal of conflict in our society. We all know that the long-term consequences of the proposed legislation are unknown, but most certainly the legislation will affect the relationship between church and state.

I, like Senator Joyal, do not want to see anyone discriminated against. No one in this place does. We work daily and diligently in the Senate so that everyone in our society is treated fairly. We will continue to do so; but we cannot penalize one group while seeking justice for another. We cannot legislate wrongs into rights, but we can make progress if we go at it intelligently.

MOTION IN AMENDMENT

Hon. Gerry St. Germain: Therefore, honourable senators, I move, seconded by the Honourable Senator Tkachuk:

That Bill C-38 be not now read a third time, but that it be read a third time this day six months hence.

The Hon. the Speaker: I see honourable senators rising for questions. Senator St. Germain has time, if he will take a question, but I must first put his motion.

It is moved by the Honourable Senator St. Germain, seconded by the Honourable Senator Tkachuk:

That Bill C-38 be not now read a third time, but that it be read a third time this day six months hence.

Does the honourable senator wish to speak further? I know some honourable senators have questions.

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, it is clear from the motion that there is the intention to delay debate on this question. Of course, that is something I cannot accept. We did not accept it at second reading; we cannot accept it now. Our clear preference is to have an agreement on a specific number of days of debate. It is very clear from this motion — I think that we do not need any clearer indication — that there is no possibility of that, so I must make clear my intention to introduce a motion of time allocation at the earliest opportunity.

I want to emphasize that there has been already a great deal of debate on Bill C-38. It was referred to the Standing Senate Committee on Legal and Constitutional Affairs, which conducted comprehensive hearings. We have heard about those today, from Senator Joyal and, indeed, from Senator St. Germain, who complimented the chair. The committee heard from 28 witnesses, who represented a very balanced view of those for and against the bill. Over the course of those four days the committee met for over 24 hours. That is the equivalent of several weeks of hearings when the committee follows its usual schedule.

I want to join with other senators in thanking the chair and the committee for the work they have done on this bill, but it is time now to move forward and to bring this debate to an orderly conclusion. I think not only have honourable senators made up their minds but the Canadian people have made up their minds. We have seen from recent polls that six out of 10 Canadians have accepted this decision as a fait accompli and want to move on to other matters.

We, honourable senators, are leaders. It is clear, if we are leaders, where we should be leading. The Canadian people have reached a conclusion. They have spoken to those of us who would listen, and it is time now to move on.

I will be moving time allocation at the first available opportunity, and I urge all honourable senators to oppose Senator St. Germain's motion when it comes to a vote.

Some Hon. Senators: Question!

The Hon. the Speaker: I take it that Senator Rompkey is not giving notice at this time, but that he is making a comment on Senator St. Germain's speech. He has a few minutes left, although I did not ask him if he was prepared to hear a comment or take a question. I should confirm with Senator St. Germain that, while he has time, he could speak further or accept questions. Senator Rompkey indicates that he has made a comment.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I have a comment and question for Senator St. Germain, who participated in the work of Standing Senate Committee on Legal and Constitutional Affairs that studied Bill C-38 last week. All honourable senators know that Appendix I to the *Rules of the Senate of Canada* provides that when a matter is before the Senate that affects the provinces:

• (1620)

(Extract from the Second Report of the Standing Committee on Standing Rules and Orders of Tuesday, May 28, 1985. The report was adopted by the Senate on May 30, 1985.)

The Standing Committee on Standing Rules and Orders recommends that the following be observed by committees of the Senate as general practice:

That, whenever a bill or the subject-matter of a bill is being considered by a committee of the Senate in which, in the opinion of the committee, a province or territory has a special interest, alone or with other provinces or territories, then, as a general policy, the government of that province or territory or such other provinces or territories should, where practicable, be invited by the committee to make written or verbal representations to the committee, and any province or territory that replies in the affirmative should be given reasonable opportunity to do so.

In his presentation the honourable senator, as well as Senator Joyal in his remarks, made reference to the fact that in the advisory opinion of the Supreme Court, section 3 is ultra vires to Parliament. However, the Minister of Justice, if I have understood correctly, sees this as being of at least declaratory value.

Reference has also been made in the debate thus far to things that fall within the purview of provincial human rights statutes. Indeed, reference has been made to a couple of cases before human rights commissions in several provinces.

Senator St. Germain, as well as Senator Joyal, seemed to have joined the issue of the relationship of provincial statutes to this proposed statute. Therefore I ask the question: Did your committee invite the provinces to make submissions on this bill?

Senator St. Germain: Honourable senators, to my knowledge, no request was made of the provinces to appear before the committee, either by our side or by the other side. Senator Kinsella has made an astute observation as to hearing from the provinces.

Honourable senators, this is serious business. There are marriage commissioners in the country whose lives are being torn apart. For example, Orville Nichols of Saskatchewan has been at this for 25 years. He now faces dismissal by virtue of the action of the province. Lord knows what these provinces will do. They all have different agendas. They all see this particular situation from a different perspective.

We should hear from the provinces as to how they will harmonize their legislation so that people are treated evenly across the board. When Minister Cotler appeared before us, he seemed concerned by the fact that there was disunity among the provinces as to how the human rights tribunals in different provinces were treating marriage commissioners.

I do not believe that delaying this bill for a short period of time will make any significant difference in the country. The fact is that we could study it more. Several issues have been brought up, such as the issue of the provinces and the impact on children. Witnesses requested that the bill be delayed.

I believe that Senator Rompkey has said that the country has spoken. Let the country speak at the next federal election. Let us not pass this legislation now. Let us wait. Let us make the next election a referendum on this bill.

Hon. Jack Austin (Leader of the Government): Honourable senators, could His Honour make it clear where we are in the proceedings? Is Senator Kinsella using time to ask a question of Senator St. Germain, although Senator St. Germain has proposed a motion that is debatable? Have we entered into the debate yet on Senator St. Germain's motion? I am a bit uncertain as to where we are in the process.

The Hon. the Speaker: Senator St. Germain has about five minutes left of his allotted speaking time, which is 45 minutes. He is the second speaker on the motion for third reading. He has proposed a hoist motion, which is in order. I put the motion. He chose to put his motion when he did so that he could have additional time. He has just about finished that time now. Senator Kinsella asked a question of the honourable senator, and he answered the question.

Are there any other questions or comments?

Senator Austin: Is Senator St. Germain's time now lapsed, or are we still on Senator St. Germain's time?

The Hon. the Speaker: My understanding of the rules is that a speaker has 45 minutes if he is the first or second speaker at third reading stage. A speaker might choose to propose an amendment at the beginning of his or her speech and speak to it. They may choose, as Senator St. Germain has done, to put it during the course of their remarks and continue to speak; or they may take their seat, as Senator St. Germain did, and then Senator Kinsella rose to ask him a question, which he took.

If there are no further questions, we will go to the next speaker.

Senator St. Germain: I have said all I really wanted to say anyway, honourable senators.

Senator Austin: Honourable senators, I would like to speak to the hoist motion that Senator St. Germain has now brought before the chamber. It is a debatable motion.

I begin the debate by saying that no public purpose could possibly be served by accepting this motion at this time.

This issue that is contained in Bill C-38 has been before the country for over 20 years. Honourable senators may recall that in the Special Joint Committee of the Senate and House of Commons on the Constitution of 1980-81, which Senator Joyal chaired as a member of the other place, the then Minister of Justice Jean Chrétien appeared several times as a witness and, on the question of the definition of equality rights, made clear that those rights were intended to be open-ended and that, as time evolved, other rights could become a part of section 15 of the Charter.

Honourable senators, this debate has continued, as Senator Joyal noted in his speech on July 4, with what was a bipartisan process through the 1980s. When the Mulroney government was in office, that government established a House of Commons committee chaired by Progressive Conservative MP Patrick Boyer, which held hearings across the country and then unanimously recommended that the Charter include protection from discrimination on the grounds of sexual orientation. We saw the evolution then of a bipartisan policy with respect to which we are now at the final destination.

In 1986, the Progressive Conservative Minister of Justice in the Mulroney government, John Crosbie, accepted the Boyer committee recommendation and promised that government would take whatever measures were necessary to "ensure that sexual orientation is a prohibited ground of discrimination in all areas of federal jurisdiction."

• (1630)

In implementing this policy decision, the Mulroney government declined to challenge in the courts the inclusion of sexual orientation in section 15 of the Charter.

Senator Joyal also reminded us on July 4, in his opening address at second reading, of the important role that Senator Kinsella played in pursuing the inclusion of sexual orientation as

an equality right in the Canadian Human Rights Act. This followed a decision in the Ontario Court of Appeal that added sexual orientation into the plain intent of that legislation.

In 1995, the Chrétien government amended the Canadian Human Rights Act to specifically include sexual orientation. Senator Joyal also reminded us that, in 1995, the Supreme Court of Canada ruled that the Charter of Rights and Freedoms must be read as including "sexual orientation" among the prohibited grounds of discrimination set out in section 15, the equality rights section of the Charter.

It was the Chrétien government that asked the Supreme Court of Canada for its advisory opinion on equality rights and entitlement to same-sex marriage. Most senators here will easily recall the impassioned leadership of Prime Minister Chrétien's Minister of Justice, Martin Cauchon, who initiated the legislative process that has placed Bill C-38 before us today. Both former Prime Minister Chrétien and former Minister Cauchon deserve great credit for their leadership on this issue, which, in Mr. Chrétien's case, goes back some 25 years.

Honourable senators, the principles of this legislation were hotly contested in the federal election. Who does not remember the arguments about the justification for a Supreme Court reference or the issue of asking a fourth question, as put to the court by Justice Minister Irwin Cotler?

As I said, the principles of Bill C-38 have been before Parliament for over 20 years and the issues of Bill C-38 have been closely and effectively debated in Parliament before and since the June 2004 election.

As Senator Joyal has noted, a House of Commons committee travelled across Canada interviewing more than 400 witnesses on this bill. Canadians have been effectively consulted by both the House of Commons committee and also by our Standing Senate Committee on Legal and Constitutional Affairs, which last week heard from key and representative witnesses in a comprehensive review of the issues of concern.

As my colleague Senator Rompkey has said, Canadians have decided to accept Bill C-38 and want the question of equality rights and marriage for same-sex couples to be settled. He mentioned *The Globe and Mail* poll of Monday, July 18, 2005, which was commissioned by *The Globe and Mail* and by CTV and reported that 55 per cent of Canadians surveyed said that the next government should let the same-sex legislation stand. Those who wanted its repeal or amendment represented 39 per cent of those polled.

Honourable senators, it is interesting that when we look at the poll from a political point of view, while it shows that Conservative supporters are likely to support a repeal of this legislation, or an attempt to prevent it from taking place, potential Conservative voters are more likely to prefer the current legislative position of the government. The polling firm Strategic Council said that public opinion on gay and lesbian marriage moved to approval after a lengthy debate. In public opinion, they said, "It is a done deal now."

Honourable senators, while I am on my feet, I wish to join Senator Joyal and Senator St. Germain in congratulating Senator Bacon and the Standing Senate Committee on Legal and Constitutional Affairs for a highly competent, thorough and civilized analysis of the legislation that is before us. Senator Bacon acted in a professional and effective way in chairing the committee hearings. I want to acknowledge also that senators on both sides acted with courtesy and professionalism, as behooves the conduct of senators in this chamber.

Honourable senators, as I said, there is no point in further postponement. There are no new issues to be argued; there are no new positions to be taken. I think everyone in this chamber understands that we, along with the Canadian people, have come to our own conclusions. I urge honourable senators, whether you support this bill, whether you do not support this bill or whether you abstain, to reject this hoist motion so that the debate can continue and that we can conclude.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I rise to speak in favour of the hoist motion. Before I do so, I should like to thank Senator Bacon for the discipline with which she ran the hearings of the Standing Senate Committee on Legal and Constitutional Affairs. It was very well done, with a high level of professionalism.

As Senator St. Germain has stated, 33 witnesses were heard. What we heard at that debate was examination of the bill alone. It did not have anything to do with what is transpiring elsewhere. We looked at what is taking place in Canada with the passage of legislation or the decisions of lower courts, particularly in eight of the 10 provinces and two out of the three territories. We did not examine, for example, Belgium, the Netherlands and Spain. These three countries have passed same-sex legislation. However, Belgium and the Netherlands have restrictions over adoption. One would have thought that we should have studied why those two countries have limitations, but we did not.

Denmark has registered partnerships that are for same-sex couples only. It does not permit adoption unless the child belongs to one of the spouses. We did not examine that aspect or ask that question. We did not examine why that country did what it did. I think a discussion of their experience is tragically missing from our debate.

Germany has a Life Partnerships Act that provides some but not all of the rights and responsibilities of marriage. Why? That question should have been asked, but it was not?

France has the Civil Solidarity Pact Act that also provides some, but not all, of the rights and responsibilities of marriage. Why? We should have examined that matter. This is what we do and we do it very well.

New Zealand has found that the opposite-sex definition of marriage is constitutional. It offers civil unions with some, but not all, of the rights and responsibilities of marriage. Again, why? Again, we did not examine that issue.

The state of California has a system of domestic partnerships that offer some state-level benefits but no federal-level benefits.

Lastly, the federal government of Australia has banned samesex marriage altogether while allowing for civil unions at the state and territorial level. Currently, civil unions are available in all but two provinces.

Sober second thought is really the essence of this chamber. This is what we really do well, and I am an advocate of that kind of work. We should take the time now to examine those other countries to determine what they did, are doing and why.

I would like to couple, along with the definition of marriage and the limitations as to adoptions and why, the notion that we should also examine the definition of family in today's world, at committee.

• (1640)

In today's world, the definition of family has changed dramatically. We have brothers living together for economic reasons. They do not get the benefits that same-sex marriage would give to those couples. We have veterans living together as family for the same economic reasons. They do not get the benefits. There is a huge inequality there. When we talk about equal rights, a big one is left out, right there.

We need to examine that aspect, and this chamber does that superbly well. We should hoist this bill for six months to allow the proper examination in those other countries, as well as the redefinition of family.

Hon. Senators: Question!

The Hon. the Speaker: I see no senator rising to speak on Senator St. Germain's amendment. I ask honourable senators, are you ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Those honourable senators in favour of the motion in amendment, please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those honourable senators opposed to the motion in amendment, please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators. Is there an agreement on time? Otherwise, it is a one-hour bell.

Senator LeBreton: A half-hour bell.

The Hon. the Speaker: The bells will ring for 30 minutes, bringing us back for the vote at 5:10.

Call in the senators.

• (1710)

Motion in amendment negatived on the following division:

YEAS THE HONOURABLE SENATORS

Angus Kinsella Buchanan LeBreton Cochrane Meighen Comeau Oliver Cools Plamondon Di Nino Prud'homme Eyton St. Germain Forrestall Stratton Gustafson Tkachuk-19 Kelleher

NAYS THE HONOURABLE SENATORS

Atkins Lapointe Austin Losier-Cool Bacon Maheu Baker Mahovlich Banks Massicotte Biron Mercer Bryden Merchant Callbeck Milne Chaput Mitchell Christensen Moore Cook Munson Cordy Pearson Dallaire Pépin Downe Petersen Dyck Phalen Eggleton Poulin Fairbairn Poy Fitzpatrick Ringuette Furey Robichaud Gill Rompkey Grafstein Sibbeston Harb Smith Hubley Spivak Jaffer Tardif Joyal Trenholme Counsell Kenny Watt-52

ABSTENTIONS THE HONOURABLE SENATORS

Nil

Senator Kinsella: Honourable senators, as we are continuing debate at third reading on Bill C-38, let me begin by observing that we all recognize that this subject has generated a great deal of controversy among Canadians, and that this controversy continued to manifest itself during the hearings held last week by the Standing Senate Committee on Legal and Constitutional

Affairs. The possible impact of this bill on a number of areas, including freedom of religion and conscience, continues to cause anxiety, at least according to witnesses who appeared before the committee and others across the country.

Honourable senators, as I mentioned during the second reading debate, I believe that with a modest adjustment to this bill we could make it whole and serve to heal many of the divisions in the country resulting from the current approach taken to this issue by the bill.

My proposal, honourable senators, is not to delete anything that is in the bill, to accept every word and comma that is in the bill, but to add a few extra words. My proposal is that a new clause 2 be added to the bill that would state the historical fact that Parliament has recognized for a long period of time the traditional marriage of one man and one woman, and continues to do so. I would then add the words, "notwithstanding this new section 2," before the word "marriage" in the current section 2, which would be renumbered as section 3, and the other sections renumbered accordingly. It is as simple and clear as that, and it would resolve and perhaps go a long way in satisfying Canadians who have expressed legitimate concerns, while at the same time protecting all the equality rights of which we speak.

It is this aspect of what I consider to be an easy remedy to deficiencies in the bill, and I will make a few comments on those. The amendment will not detract from the current Bill C-38 but will help to heal the divisions which the bill presently causes among Canadians. The continued recognition of the traditional marriage of one man and one woman by Parliament is widely regarded as being essential, and such a union is, of course, also included within the class of relationships defined in the bill as marriage for civil purposes. In other words, the current clause 2 says that marriage for civil purposes is the union of any two persons to the exclusion of others. The classes of persons covered by that clause clearly are men and women.

Honourable senators, as I noted during the debate on Bill C-38 at second reading, by containing a qualified definition of marriage for civil purposes and not containing any reference whatsoever to any other definition of marriage, and in particular to traditional marriage, that does create not only a sense but a reality of an omission that has upset Canadians. The bill can readily accommodate a definition of marriage that reflects the realities of both same-sex couples and heterosexual couples, something which unfortunately the government has resisted doing at every stage.

In my view, harmony can be found in this divisive topic. It has been used as a political wedge, or an attempt to be a political wedge, to create a dichotomy where none should exist, both legislatively and pragmatically. It was not necessary to exclude or reject the traditional definition of marriage in the desire to ensure equal rights for all.

(1720)

Some have argued that my proposed amendment will somehow create a separate but equal regime or would relegate same-sex marriage to a secondary status. This view relies erroneously both on the fallacy of argument by analogy and on the fallacy of reductio ad absurdum.

The origins, as honourable senators know, of the separate but equal doctrine relate to the attempt to segregate black children from white children, which was rejected in the United States by the United States Supreme Court in the case of Brown v. Board of Education. The American argument of that era was that if the educational services provided were of equal quality, then, for all intents and purposes, the groups would receive equal treatment. The court in Brown v. Board of Education, as any student of human rights knows, did not rule that separate regimes were, by their nature, unequal, but simply stated that segregation was not providing actual quality. The decision hinged on the question of equality, not separate treatments.

However, Senator Joyal quite rightly drew our attention to Canadian law and the fulsome example that we have in our own Canadian law. We do not have to rely on inaccurate, non-analogous examples from the United States. As Senator Joyal has indicated, no better home-grown example exists to depict the concept of equality through parallel yet distinct recognition than section 16 of the Canadian Charter of Rights and Freedoms. This section enshrines and protects parallel institutions without degrading either, while still acknowledging their inherent differences. Let me quote from section 16.1(1) of the Charter, which was an amendment made to the Charter that we dealt with when we dealt with that resolution that affects the province of New Brunswick, and so it was using the bilateral formula to amend the Constitution.

It related to the fact, the reality, that in my province of New Brunswick we have two linguistic communities that have equal benefit of the law. I will quote from the section:

16.1. (1) The English linguistic community and the French linguistic community in New Brunswick have equality of status and equal rights and privileges, including the right to distinct educational institutions and such distinct cultural institutions as are necessary for the preservation and promotion of those communities.

Honourable senators, the proper vernacular for this discussion is thus, "parallel yet distinct," not "separate but equal."

I have suggested that Bill C-38 ought to include recognition of the historical fact of traditional marriage. Let me be clear on this point: I have not suggested that a separate institution of the civilunion type be instituted and reserved for same-sex couples. There is nothing in my proposed wording or in my previous comments that would suggest that I intend to relegate anyone's definition of marriage to a secondary position or a lesser status. In fact, those familiar with section 16 of our Charter will appreciate that it is a Canadian constitutional principle that parallel and distinct institutions can coexist in full equality and in harmony.

Bill C-38, as it presently stands, ignores any definition other than that of marriage for civil purposes. The amendment that I intend to make will acknowledge the fact of traditional marriage as it has existed for hundreds of years and, quite frankly, as it will continue to exist for millions of Canadians regardless of what Parliament decides, while acknowledging and respecting the

expansion of the legal definition to reflect modern realities. It is clear that this Canadian legislative solution is very different from the situation faced by the court in deciding *Brown v. Board of Education* in the United States.

Honourable senators, I encourage you to reject the notion that there is only one single, solitary option, that there is only one acceptable wording, and that traditional marriage should be cast aside by Parliament. Equality can be achieved without throwing the baby out with the bath water. Equality can be achieved without throwing away the current and historical concept of marriage in which most Canadians participate. We can do it without giving up anything. There can be a harmony of definitions. We can heal the deep wounds this false dichotomy has created.

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Leader of the Opposition): With that in mind, honourable senators, I move:

That Bill C-38 be not now read a third time but that it be amended, on page 2,

- (a) by replacing line 39 with the following.
 - "2. Parliament has recognized and continues to recognize the traditional marriage of a man and woman.
 - **3.** Notwithstanding section 2, marriage, for civil purposes, is the lawful"; and
- (b) by renumbering clauses 3 to 15 as clauses 4 to 18, and all cross references accordingly.

Honourable senators, I submitted a copy of this motion to the table earlier this afternoon, so that copies could be made and circulated forthwith.

The Hon. the Speaker: It is moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton:

That Bill C-38 be not now read a third time but that it be amended on page 2,

- (a) by replacing line 39 with the following.
 - "2. Parliament has recognized and continues to recognize the traditional marriage of a man and woman.
 - **3.** Notwithstanding section 2, marriage, for civil purposes, is the lawful"; and
- (b) by renumbering clauses 3 to 15 as clauses 4 to 18, and all cross references accordingly.

Honourable senators, the text in French and English is being distributed. I will take my seat. If there are other speakers, they will rise. If not, I will see if you are ready for the question.

I will follow a list, alternating between the opposition side and the government side. I will now go to the government side and recognize Senator Bacon. When amendments are moved, it is difficult to follow a precise list because senators who have spoken have the right to speak again on the amendment. My intention is to proceed as follows: Senator Bacon, Senator Forrestall, Senator Pépin, Senator Gustafson, Senator Cordy, Senator Cools, Senator Smith, Senator Di Nino, Senator Grafstein, Senator Stratton, Senator Hervieux-Payette and Senator Banks. Senator Joyal, do you wish to be on the list?

Hon. Jack Austin (Leader of the Government): I wonder if it would be agreeable to hear from the sponsor of the bill in response to the proposed amendment?

The Hon, the Speaker: I will put Senator Joyal in place of Senator Bacon. We will hear from him next. I have put the motion in amendment, and we are now speaking to the motion in amendment.

POINT OF ORDER

Hon. Marcel Prud'homme: On a point of order, and I am sure this is a point of order: His Honour knows how highly I esteem him, but on this side, in this corner, we are getting a little bit not annoyed, but surprised - when we say we will alternate between the government and the opposition. May I say I do not intend to speak on this, at least not at this time. His Honour said he will be fair, and he is fair, in going from government to opposition to government to opposition. However, I wonder if it is at all possible that he use another kind of phraseology. There are 11 of us who are non-aligned. We do not belong to government — thank God, sometimes. We do not belong to the opposition, thank God for the government. We 11 senators are non-aligned. I do not like to be referred to as "we" and "they." I do not speak for all 11, but there are five Progressive Conservatives, five independents and one NDP. No one speaks for us. If one of us wishes to speak, he or she will do so. I appreciate the patience of the house on this point of order.

• (1730)

The Hon. the Speaker: That is a good point, Senator Prud'homme, and I will be sensitive to it. On the point of order, I see Senator Corbin.

[Translation]

Hon. Eymard G. Corbin: Honourable senators, we are beginning to tolerate a practice that is not in keeping with the *Rules of the Senate*. I do not intend to raise a major point of order but clearly, rule 32 provides, and I quote:

A Senator desiring to speak in the Senate shall rise in the place where that Senator normally sits and address the rest of the Senators.

Rule 33(1) reads as follows:

When two or more Senators rise to speak at the same time, the Speaker shall call upon the Senator who, in the Speaker's opinion, first rose.

Of late, I have noted that the chair is using lists. I do not know who prepares the lists, but I do not believe that it is a prerogative of the chair to prepare lists of speakers. The rule is clear. A senator wishing to speak must rise in the place the senator sits, and the first senator to rise is called upon to speak.

I have no wish to be difficult; I am not trying to delay the debate. I am simply pointing out that what has been occurring for some time is beginning to concern me. If the authorized party spokespersons tell me they have agreed among themselves to establish this list, that is another matter. However, the chair must indicate that this is the case.

Nevertheless, to return indirectly to the question raised by Senator Prud'homme, nothing prevents a senator not on the so-called list from rising before anyone else and being called upon to speak. I question the lists practice and would like someone to explain to me the origin of this procedure, which I, at least, consider contrary to the *Rules of the Senate*.

[English]

The Hon. the Speaker: Do other honourable senators wish to intervene on the point of order?

Hon. Anne C. Cools: Honourable senators, I would like to speak in support of the point of order. Senator Corbin's comments are extremely valid and speak to another one of those creeping practices in this place that have the effect of eroding the individual rights of senators. I am not prepared for this issue, and I am aware that the subject of marriage is heavy on our minds, but I would love to know more about how these practices are created, who creates them and what authority exists for creating them.

If honourable senators will recall, several years ago the Speaker would rise and tell the house that the leaders had agreed on the matter, and that was the end of it. At the time, I pressed hard for the Speaker to seek the agreement of the whole house on the matter of the leaders' agreement. A private agreement between the two leaders is not binding on this house. It might seem to many honourable senators that Senator Corbin is making a picky point, but that is not so. It is important, and perhaps as we go forward we should address the question of the authority for these kinds of actions.

Each senator holds his or her powers, privileges and immunities under section 18 of the BNA Act, privately and individually. As well, we have the collective Senate privileges, powers and immunities. This important point can be addressed properly, and I have always found it quite easy to do things properly.

The Hon. the Speaker: Are there other interventions? If not, I thank Senator Prud'homme for his point of order and other honourable senators for their comments.

I need not interfere with today's proceedings on this legislation but I should take the matter under consideration in terms of the practice in this place, how it has come to this, and what has caused me, at times, to read lists of senators' names in the order in which I intend to recognize them, even though, as Senator Corbin has said, they have not stood in their place at the moment of

wishing to speak; and sometimes more than two rise at one time. I will bring back a determination of whether my suggestion is out of order. Perhaps that will give me an opportunity to comment on the practice.

In the meantime, I intend to proceed to recognize senators. I will see Senator Joyal next. The suggestion has been made that as the sponsor of the bill on the government side, he should be given the next opportunity to speak following a senator from the opposition side. In terms of the independents senators, I will watch carefully for them and try to ensure that they are given a full and fair opportunity to participate.

Hon. Serge Joyal: Honourable senators, I will be brief. There are three reasons why the amendments of the Honourable Leader of the Opposition are not acceptable.

First, the definition as stated in clause 2 is an inclusive definition of marriage. It includes "a la fois" couple of the opposite sex as it includes a couple of the same sex. The definition is absolutely inclusive of the two definitions of marriage that we have been discussing.

Second, it would bring doubt to the decision of the eight provincial courts and the Supreme Court of Canada, where 30 judges decided quite clearly in their ruling. The Ontario Court of Appeal said that the common law definition of marriage is the voluntary union for life of two persons to the exclusion of all others. That is quite clear and is consistent in provincial, territorial and federal jurisdictions.

Third, the reference to "notwithstanding" makes one realize that something in the bill might not be as clear as a formal, simple statement of the definition. There is an implication of hierarchy of importance in the definition, which is against the objective of the bill to establish equal access to the civil institution of marriage.

I would ask honourable senators to vote against this amendment.

(1740)

Senator Cools: Honourable senators, I would like to speak in support of Senator Kinsella's amendment to Bill C-38. I disagree strongly with what Senator Joyal has said on Senator Kinsella's amendment. I would even go further; I am prepared to say that Senator Joyal is wrong on that matter.

Honourable senators, I support Senator Kinsella's amendment because it reduces the radicalism in the bill as it is. I do oppose the bill and I must remind all honourable senators of that fact.

I would like to support Senator Kinsella's amendment in the name of a part of the Constitution that has not been mentioned at all in this entire debate. I am sure honourable senators know very well that I am on the record as saying that the government, in treating the question of marriage as a Charter rights question, has falsely framed the issue. I believe that the weight of the law of marriage in Canada since 1759, and certainly since 1867, has been to protect marriage as the hallowing of the sexual union between a man and a woman in which the public good, the public interest, was the procreation of children.

I support that position very strongly. My position is that if Senator Joyal and the Government of Canada were so committed to equal rights for homosexual persons, they could have taken the proper legal course, which would have been to bring an amendment to the Constitution Act, 1867 altering or amending section 91.26, marriage and divorce, and section 92.12, the solemnization of marriage in the province, to bring about this alteration or redefinition of marriage.

I have contended for a long time that there is nothing in the Charter of Rights that abrogates or displaces the BNA Act. I sincerely believe that the Charter is a complement. We keep talking about exclusion and inclusion; the Charter is a part of the whole Constitution.

The interest I would like to bring forth today is the public interest or public good. The person in our country who embodies the public good and the public interest is Her Majesty the Queen, the source of executive power.

Honourable senators, we have taken much for granted in this debate. There has been little discussion on the actual legal substantive issues and a lot on who feels what and who does not feel what and who chooses what and who does not. We have all forgotten that no two people by any act of their own volition can marry themselves, or divorce themselves. The third party in every marriage and divorce is Her Majesty the Queen.

I would like to speak to Her Majesty's role in the law of marriage. The Queen embodies the public character and is a party to every single marriage because it is under the *lex prerotiva*, the law of the Royal Prerogative that marriages in Canada are performed. Under the Royal Prerogative, Her Majesty grants licences to clergymen and commissions to judges, justices of the peace and marriage commissioners to perform marriages. The Royal Prerogative vests legal and civil authority in all of these officers to perform marriages, to pronounce persons married and to confer on married persons that peculiar civil status. The grants of licences and commissions are acts of the Royal Prerogative and, therefore, Her Majesty has a serious interest in this matter.

For the record, honourable senators, I have before me a copy of a licence to a person, an ordained minister, who is authorized to solemnize marriages. In Canada, two licences are required from Her Majesty. As soon as one hears the word "licence," it means Her Majesty's Royal Prerogative. One is the licence to the clergyman or the commissioner, and the second is the licence that is also given to the couple to allow the authorized solemnizer to perform the marriage.

For the sake of this debate, I would like to put a few matters on the record. I begin by citing no other than the mighty authority, and one of the Constitution drafters and framers, Sir John A. Macdonald. This is recorded in sessional papers number 89, 1877, dated November 1869, and it is Sir John A. Macdonald's legal opinion to his superiors in respect of the powers over marriage in respect of granting licences. Remember that Sir John A. Macdonald was the Attorney General of Canada, and this was the Attorney General of Canada's legal opinion. He said:

The power given to the local Legislatures to legislate on the solemnization of marriage was, it is understood, inserted in the Act at the instance of the representatives of Lower Canada who, as Roman Catholics, desired to guard against the passage of an Act legalizing civil marriages...

Honourable senators, what Sir John A. Macdonald is referring to is the division of marriage into sections 91.26 and 92.12 of the BNA Act, 1867. This is a cameo visit.

I would like to move to the powers over the actual performance of marriage by licensed persons. I do not believe that anyone here has wrapped their mind around whether section 15 of the Charter concerning equal rights can be applied to Her Majesty's Royal Prerogative in respect of performing marriages. To do this, I would like to go to 1763 — this is following the battles between the King of France and the King of England on the Plains of Abraham. After the settlement, I believe they called the King of France "His Most Christian Majesty" and they called the King of England "His Most Britannic Majesty." That is quite amusing to some, but this is the state of the law; and that is one of the current problems today — that the law has become irrelevant.

Honourable senators will recall that after the conquest and its settlement a state of peculiar political status existed in Quebec. The Governor General, whose name was James Murray, was given both civil and military powers, which was a unique constitutional situation. The interesting thing, which very few people seem to know, was that on December 7, 1763, Governor General Murray, the Governor-in-Chief of the Province of Quebec, was given the powers over granting marriage licenses were granted. Interestingly enough, these powers that were given to him had been the powers of the Lord Bishop of London, because the Lord Bishop of London had exclusive powers over the colonies in the exercise of eclesiastical matters of which marriage licenses were to the delegated Governor-in-Chief.

What many people do not understood is that the Governor-in-Chief was given those powers over marriage as the Governor-in-Chief and the Ordinary of the Church of England in the expectation that the Governor General would become the Ordinary, and was the Ordinary of the Church. Let us understand that the powers over marriage moved from the Pope to the Archbishop of Canterbury, to the Lord Bishop of London and then to Canada's Governor-in-Chief. I would like to quote from the instructions to Governor Murray when his office was commissioned.

• (1750)

Section 35 of the instructions to the Governor-in-Chief, James Murray, reads:

You are not to prefer any Protestant Minister to any Ecclesiastical Benefice in the Province under your Government, without a Certificate from the Right Reverend Father in God the Lord Bishop of London, of his being conformable to the Doctrine and Discipline of the Church of England, and of good Life and Conversation;

"Conversation" has a particular meaning.

I am reading from the instructions to the Governor-in-Chief, James Murray, of December 1763. Section 37 reads:

And to the End that the Ecclesiastical Jurisdiction of the Lord Bishop of London may take place in Our Province under your Government, as far as conveniently may be, We do think fit, that You give all Countenance and Encouragement to the Exercise of the same, accepting only the collating to Benefices, granting Licences for Marriage, and Probates of Wills, which We have reserved to You, Our Governor...

That is very important. This was the practice that was found through the British colonies, at least in the New World. I do not know so much about Australia and others, but through the New World, Barbados, for example.

If we were to examine Governor Generals' letters patent, we would find these powers repeated. The law of marriage, as it is in the Constitution today, was a part of the Canadian bargain between French and English Canada. Sir John A. Macdonald also authored 44 of the 72 resolutions that became the BNA Act. We must understand clearly that marriage, as it exists in Canada, was part of the authority given to Governor-in-Chief James Murray.

The Confederation debates are replete with this. Hector Langevin, Taché and Sir John A. Macdonald all speak about the phenomenon of protecting marriage. Perhaps we should debate how and why marriage got constitutional protection.

In 1867, the framers of the Constitution were intent on maintaining the status quo. Remember that the French Canadians, as they entered into Confederation, were concerned about the phenomenon of these people creating English Protestant civil marriage without clergymen. I say that all marriages are civil marriages, because Her Majesty, the civil and religious authority, did both, drawing on the canon law and the civil law. However, the current government's thinking with Bill C-38 was precisely what the French Canadians were objecting to as they came into Confederation. What has this government done in creating this artificial concept of civil marriage? It has lopped civil marriage off from marriage. However, all Canadian marriages are civil, because the civil law and canon law developed and entered the common law. Blackstone tells us this, as do any of the great authorities on the common law.

I would like to read the part of the Confederation compact in respect of marriage that deals with handing these powers to the Governor General. I would like to put on the record a statement from the commission of July 1, 1867, appointing Viscount Monck as the first Governor General of Canada.

Article VII reads:

And We do so by these Presents Authorize and Empower you within Our said Dominion, to Exercise all such Powers as We may be entitled to exercise therein in respect of Granting Licences for Marriages, Letters of Administration and Probates of Wills, and with respect to the Custody and Management of Idiots and Lunatics, and their Estates; and to Present any Person or Persons to any Churches, Chapels

or other Ecclesiastical Benefices within Our said Provinces of Nova Scotia and New Brunswick, to which we shall from time to time be entitled to Present.

Honourable senators, I have surveyed these questions with some thoroughness and have been thoroughly disappointed that at every stage of this process the government has chosen to proceed, not by law but by personal wishes and personal whims. Honourable senators, the tragedy of this debate is that it casts people who disagree on the questions of the law as homophobes. That is very unfortunate. I am almost reminded of Honoré de Balzac's great story *Passion in the Desert*, which ends by saying that the greatest relationships have often come to an end based on nothing other than misunderstanding.

Honourable senators, I have searched the judgments; I have searched to understand how the Attorney General could switch from one position to the other on the issue. How could the previous Minister of Justice, Anne McLellan, be so wrong and Minister Cauchon be so right? I have searched for the evidence and the arguments that have been brought forth to show that this bill is based on law. I am not a lawyer, but I am a member of the high court of Parliament and I am a parliamentarian. I have a duty to know the law and to trace the thread of it from the time it was previously settled to the time it is being reopened.

Some say that Parliament never legislated much on marriage. Parliament legislated very little on marriage because of constitutional comity between statutory law and common law and the canon law. Until very recently, most political people in Canada viewed the canon law as sacrosanct. They let it be because they wanted harmony and balance in the Constitution.

It would be more difficult than finding a needle in a haystack to find how this government was able to follow the thread of the law of marriage and arrive at this conclusion. That is why I can confidently say that the issue of homosexual marriage has been falsely framed. It is interesting to note that the position I have adopted was adopted in the very first marriage judgment, that of Mr. Justice Pitfield in British Columbia.

I still believe that we have done homosexual people in this country a terrible disservice because, at every stage of the process for the past many years, the legal situation has been obfuscated, manipulated, distorted and turned upside down. The principles have been reversed and, frankly, homosexual people deserve better. I do not believe that you can create the brotherhood of humanity or love by bills that are so shoddily drafted, so hastily put together and so ill-conceived. I believe that if you owe human beings dignity and respect, you treat the law with respect as well, because at the end of the day all that we have to protect us is the law. That may sound sentimental to many, but every time we strike at the law we drive a bargain with the devil, and at the end of the process, the devil will come back, because we will have struck down every law.

• (1800)

Honourable senators, I defend Her Majesty and her interests in marriage. I really wish that the government could have put a bill before us, which they had the capacity to have done, which would have engaged everyone's generosity and understanding of the law.

Debate suspended.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, it is six o'clock; is it your wish that I not see the clock?

Hon. Bill Rompkey (Deputy Leader of the Government): Your Honour, I wonder if you would seek a consensus on all sides of the chamber not to see the clock.

The Hon. the Speaker: Honourable senators, I am looking in particular at the independents but, as well, the opposition and government side. Is it agreed, honourable senators, that we not see the clock?

Hon. Marcel Prud'homme: Honourable senators, unless we are being consulted piecemeal around here, it is very kind, but I do not think that is the way we should proceed with the non-aligned senators. More and more in the future we will seek more information than that.

I note that one honourable senator was not consulted. I was asked; another one was not asked. We respect the duty of the deputy leader to give us a firm commitment. I cannot speak for all of us, but I know that one of us was not consulted.

We will agree not to see the clock, but we would like Senator Rompkey — whom I sat with for many years in the House of Commons — to make a commitment now to tell us that is all that will be discussed today so that we can make an agenda.

Some people seem to know more than others. If we are told that after we dispose of this item, if we do not see the clock, we will put over the remaining items on the Orders of the Day for tomorrow.

Honourable senators, excuse me, please. If some honourable senators are impatient, they may leave. I have been told that there is a dinner being offered at the moment, but that is another matter. If some are impatient, they can go and take fresh air outside.

Senator Rompkey is a man of honour. If he says that after we dispose of this item — that is all he can do — the rest of the Orders of the Day will be postponed until tomorrow, then I expect that we would not see the clock.

May I ask Senator Rompkey to comment?

Senator Rompkey: Honourable senators, it is my intention to propose that after we finish with Bill C-38 and Bill C-48, we stand all other items on the Order Paper until tomorrow. We must finish Government Business and then we would postpone the other items until tomorrow.

The Hon. the Speaker: Honourable senators, I seek the will of the house. Is it agreed that we not see the clock?

Hon. Senators: Agreed.

CIVIL MARRIAGE BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, seconded by the Honourable Senator Callbeck, for the third reading of Bill C-38, an Act respecting certain aspects of legal capacity for marriage for civil purposes.

Hon. Anne C. Cools: Honourable senators, I was trying to make the point that we are members of Parliament and the law is supposed to be our finest tool. We should use the law, not our sentiments, not our wishes or our wills.

It occurred to me that I may be creating a slight misunderstanding. Soon after Confederation, Oliver Mowat and the provincial powers supporters started to challenge the federal powers.

The Hon. the Speaker: Honourable senators, I am having trouble hearing Senator Cools. If you must have conversations, I would ask you to carry them on outside the chamber.

Senator Cools: As a matter of fact, that phase of our history, I think Lord Haldane called it the contest between Sir John A. Macdonald and Lord Watson as the Constitution of Canada was changed by the JCPC from whatever the framers had intended it to be into something else. I do not want to create any misunderstanding, because the Governor General's power in granting marriage licenses thereafter was exercised by the provincial Lieutenant-Governors. However, it is still Her Majesty's power. In 1759, when this all began, marriage was an important issue and it meant much to both French and English subjects as the capitulation settlements were worked out.

The Roman Catholic members of the assembly fought hard and won. Sir John A. Macdonald and the framers went to the London Conference. The entire marriage area was split into marriage and divorce, section 91(26), and the solemnization of marriage section, 92(12) of the BNA Act 1867.

If you doubt me, honourable senators, go and read the first and second draft. Begin by reading the 72 resolutions of which Sir John A. Macdonald wrote 44. Then look at the first, second and the subsequent drafts. I believe there were eight in all; I do not remember.

In any event, honourable senators, it has been a great disappointment to me that this government could not rely on law. If support is so great for homosexual marriage, then put the position and go to the country with a constitutional amendment, amending section 91(26) and section 92(12) to redefine marriage as homosexual inclusive. If support is as great as the government says it is, I am sure it would have been welcomed. I ask myself, politically, why it was easier to dance with certain courts rather than to dance with the public. I believe we all know the answers to that.

There is another matter I would like to clarify. Some people may not know what the Ordinary of the Church was. The church was divided into ecclesiastical provinces. The Ordinary of the Church had important control in many matters over a province.

Honourable senators, I dug this quotation up and my lawyer, when he appeared before the Supreme Court last October used this particular quotation in our arguments. Sir William Blackstone, in his *Commentaries on the Laws of England*, Vol. I, 1765 to 1769, spoke about the relationship that should pertain between the courts and the rest of the system. Our constitutional system presupposes constitutional balance and comity. Sir William Blackstone said:

In this distinct and separate existence of the judicial power, in a peculiar body of men, nominated indeed but not removable at pleasure by the crown, consists one main preservative of the public liberty which cannot subsist long in any state unless the administration of common Justice be in some degree separated both from the legislative and also from the executive power. Were it joined with the legislative, the life, liberty and property of the subject would be in the hands of arbitrary judges whose decisions would be then regulated only by their own opinions and not by any fundamental principle of law...

Thank you, honourable senators. These matters mean a lot to me. It breaks my heart that we must proceed in this way. Whether it is incompetence at the PCO or laziness, I do not know. I can tell you, at the end of the day, the institutions are important because they must outlive us and so must the law. We should pay careful attention to the threat of the law and to how we settle the law at this point.

• (1810)

I have great respect for Senator Joyal. Senator Joyal knows that. I have worked with him on many issues. However, on this particular issue, if I can use the lexicon of young people, Senator Joyal has called it wrong. He has called the law wrong. The law belongs to all of us. It is not good to bring a division between homosexual people and heterosexual people. It is a terrible thing.

Senator Joyal, I thank you for all your work. I know how hard you work. For that, I respect you.

I would like to thank Senator Bacon for her patience with the committee, because we found ourselves in a situation where we were trying to cram so much into the time available. I would also like to say that, in addition to everything else, Senator Bacon is a very nice woman.

[Translation]

Hon. Lise Bacon: Honourable senators, I wish to express my thanks to all those who made a contribution to the work of the Standing Committee on Legal and Constitutional Affairs in our examination of Bill C-38 on civil marriage for same-sex couples.

The circumstances surrounding Bill C-38 were exceptional, lasting well into the summer and with a time limit. The very nature of the matter at hand, and the deep individual moral

convictions and values involved, imposed strict discipline upon us all, which we maintained at every stage of the process. My team and I set out a series of guidelines that shaped the committee's decisions and proceedings, both at the preparatory stage and during the hearings.

The first of those principles was recognition of the constant need for balance between those in favour of the bill and those opposed to it. The final result is clear evidence of this: we heard presentations by 14 groups opposed and 12 in favour, with a total of 33 witnesses. Each time one dropped out or was rejected, the appropriate steps had to be taken to maintain parity. We also wanted to ensure that speaking time was fairly and rigorously divided between witnesses and senators.

Generally, my concern has been to allow maximum speaking time to witnesses who have travelled in order to appear, and to senators attempting to understand issues that are often complex. In the case of Bill C-38, I appealed to my colleagues' sense of discipline and cooperation. Because this was such an emotionally charged issue, the work entailed fairly sizeable hearings. I therefore opted to allow a specific amount of time to each, while keeping in mind the witnesses' need to have time to deliver their message properly and for senators to obtain clarifications before having to reach a decision. I have greatly appreciated the participation and the serious approach taken by my colleagues throughout the hearings, despite real fatigue. Professionalism was always first and foremost.

Our choices also took into consideration the criteria of linguistic and regional representation. After consultation, we drew up several witness lists. Considerable effort was required to get the academics involved, when we were well into July and there were no classes.

Efforts were made to find representatives of the Maritimes and the West to ensure equitable representation from each part of Canada.

Clearly, we faced an important challenge with regard to broadcasting our deliberations on television. It is highly unusual for the Senate to sit during the summer. Furthermore, another committee was also sitting at the same time. Under such circumstances, it was extremely difficult to mobilize indispensable and adequate resources while respecting deadlines and standards of quality. However, it was made possible as of Wednesday morning. Some senators insisted that the hearings be televised. I must admit that this was made possible through persistence and quick action. I understand the interest this holds for some senators.

In closing, I want to thank all the staff who made it possible for us to hold hearings: the committee clerk and his staff, and the researchers at the Library of Parliament. I also want to again thank all the staff: Installations Services, the interpreters, the stenographers and the television team that did so well under such demanding circumstances. I also want to thank the pages who were here with us this week. I thank, in particular, the witnesses and the senators for their extraordinary discipline during such long hours.

Right from the start, by encouraging a pre-study, we wanted the Senate to undertake as complete and in-depth a consideration as possible of the bill. In my opinion, we can say "mission accomplished."

I must say that the committee debates were characterized by openness and dialogue. The issue under consideration was extremely important and undeniably complex. Religious beliefs, personal values and moral and legal principles weighed heavily in the balance. Ultimately, the debates demonstrated respect and understanding of others. This was a valuable experience and I want to thank you all for it.

[English]

Hon. J. Michael Forrestall: Honourable senators, I join with those who have expressed their appreciation for the work that Senator Bacon has done. I want to express my appreciation again to Senator St. Germain, and to Senator Joyal in particular. When I look down at the end of the hall, there is only one who has been around here longer than I have, and then only by a few months, so we are pretty well equal in that sense.

I have to thank both of these gentlemen. As I say, I thank Senator Joyal for major debate after major debate, serious question after serious question, in helping me to understand the process. As much as Senator Cools belabours the law, the process is equally important.

It has been my habit, and that of many others, to go to the other place to hear particular parliamentarians speak. It is the same here. When I know that several of you will speak — not at the same time, I trust — and from time to time make interventions on matters of consequence to people, I like to listen as closely as I can. I get old, and my memory fails me frequently, but not with regard to impressions.

A lasting impression I have, honourable senators, is that I have never known a serious negative consequence to arise from taking our time and doing the right thing. It takes us a long time to grasp complex matters. I am sure it takes a longer time for the general public.

I am a Roman Catholic. I have, I hope, a relatively open mind with respect to human affairs, human discourse, in a variety of ways. I want to say something briefly about the importance of my declaring what I am. That is not important. However, the attention I pay to my marriage is a blessing that one day I hope I will be judged upon by appropriate authorities. That is what is important, not the marriage ceremony itself. Those are just civil functions. They have been around forever. The method of handling it happened almost accidentally, as Senator Cools would indicate. It left the important part of the marriage to the individual and the religion or process of their choice.

• (1820)

Honourable senators, this is complex and very complicated but nothing has ever gone seriously wrong by taking our time. Senator Kinsella has bridged a very deep concern that I have with respect to this piece of legislation. I have no hesitation here. I am one of those, together with Senator Prud'homme — and there may be others; Senator Fairbairn certainly sat up and looked

down on us in the other place for many years — who dealt with the abolition of capital punishment. I think I voted eight times on that. It does not mean very much but, if you think about it and relive those years, you will recall the way in which it was handled masterfully — not all at once, but step by step. We progressed as a society and we matured. We understood where we were going and we did not mind being led.

There were the debates with respect to abortion and a variety of issues. However, where the legislation survived, and continues to survive without too much criticism, is where we went slowly, where we took it step by step. With capital punishment, it was spread over two or three Parliaments. It took a long time to decide, finally, that there would be an absolute position.

The amendment that Senator Kinsella has brought before us is worthy of care and some attention. He has chosen a very cautious, careful and well-worded vehicle to bridge this gap to resolve some of my problem. I ask you to read it. It is on the desk in front of you. Ask yourself: How does this change the bill, and in what significant way? What dire consequence would flow from acceptance of this amendment as it relates to the bill itself?

Honourable senators, I have thought about this for a month or six weeks, perhaps. In the hospital, I had time to think about things. It does not put me in a position of having to comment or to be judgmental or to be unfair with respect to the rights of others. Senator Kinsella says:

That Bill C-38 be not now read a third time but that it be amended, on page 2,

(a) by replacing line 39 with the following:

- **"2.** Parliament has recognized and continues to recognize the traditional marriage of a man and a woman.
- **3.** Notwithstanding section 2, marriage, for civil purposes, is the lawful"; and ...

As we know, the rights of all people are important. I do not see how, in a peripheral way, we dealt with how this amendment might have carried — either the intent or the wording of the government bill. I want to urge you to think about it but keep in the back of your mind that it does not matter whether this bill passes tonight, tomorrow, in October, or a year from now. It is a condition of society that it will progress and it will evolve, and that these matters will come to pass. Far better that they come to pass in peace, understanding and in awareness than in controversy and in division. A week, a month, two months, cannot make much difference in the millenniums ahead of us. The word "infinity" is powerful.

I urge you to consider the amendment. I know that Prime Minister Martin and others have said that they would accept no amendments, but my dear colleagues, I think we would be doing the right thing if we adopted this amendment and sent the bill back to the other place. The matter could then come back to us or not. I am not one of those who believe that, once dealt with, finally, we can and will change it. We can improve it. We can

improve it right now. It might be a useful boost to the due process if we were to consider, in a positive vein, Senator Kinsella's very thoughtful amendment.

Some Hon. Senators: Hear, hear!

[Translation]

Hon. Lucie Pépin: Honourable senators, I am very pleased to take part in today's debate at third reading of Bill C-38.

Beyond officially broadening the definition of civil marriage to include same sex unions, passing this bill will be a triumph for us as a society.

This issue has dominated political and legal arenas in Canada for many years. I cannot think of another issue in the recent past that has prompted such careful consideration or broad discussion.

As mentioned earlier, over the past number of months, eight provincial courts, one territorial court, the Supreme Court of Canada, the House of Commons, a special legislative committee and the Standing Senate Committee on Legal and Constitutional Affairs have each voted in favour of a more inclusive definition of the concept of marriage.

This debate was held not only by our institutions, but also by the public and the media throughout the country. The wealth of discussions gave us the opportunity to hear every possible opinion and option imaginable on the issue. The discussions and reactions provoked by this issue remind me of those prompted by the lengthy debate on the right to abortion in Canada. I was directly involved in that fight and it shaped my political career.

• (1830)

In the 1960s, we opened the first family planning clinics in the country and worked to have them accessible and publicly funded. In reality, besides fighting for access to these services, we fought for women to have the right to control their own bodies.

Despite the obviousness of the cause we were fighting for, we ran up against the moral and religious values of many of our fellow citizens. They called our fight immoral, and, worse, a threat to society. A number of years later, we can all see that these forecasts have proven unfounded.

In 1991, the Senate rightly blocked the recriminalization of abortion, thus preventing a major reversal for the rights of women. Today, once again, in 2005, the Senate has the means to defend the rights of a group of Canadians.

I am moved by the spirit that moved me in 1991, when we called on senators to accord Canadian women freedom over their body and afford them recognition as full citizens. I believe that voting for Bill C-38 is a means of defending another principle set out in the Canadian Charter of Rights and Freedoms, that of equality.

The rights of homosexuals have been recognized gradually in Canada. The importance of section 15 of the Charter of Rights and Freedoms is undeniable. It provides that:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination ...

These few words have played a key role in the decisions of the courts on the matter of the marriage of partners of the same sex.

In Canada, we recognize that we are all equal and must all be treated equally, men and women, whether we are Christian, Jewish, Muslim or atheist and regardless of our ethnic origins, our gender or our sexual orientation. The Charter is described as a living document, which evolves over time and along with society. Its provisions cannot be used to exclude members of Canadian society, but must empower everyone to develop fully as a citizen.

We may rightly be proud of being part of a country that has chosen to protect the rights of minorities and that recognizes the need for our laws to do the same.

For several years now, in light of these constitutional obligations, the Government of Canada has extended the same benefits to heterosexual and homosexual couples, and subjected these couples to the same obligations. The state has no right to discriminate against two consenting adults in a sexual relationship, be they homosexual or heterosexual. So, the government must not only treat these couples the same way, but it must also extend the same recognition to them. I insist on the word "recognize." It is a matter of equality.

We are relieved that Bill C-38 does not change the institution of religious marriage in Canada. I believe that my full support for Bill C-38 would not be the same were it a case of robbing Peter to pay Paul. The distinction between civil marriage and religious marriage, between the contract and the sacrament, has been made clear.

We are also convinced, since it is set out in the legislation, that religious authorities will be able to continue to define and celebrate marriage in accordance with the teachings in their holy books. They will not be required to celebrate unions contrary to their beliefs. Religious freedom is clearly protected in Bill C-38, just as it is in the Canadian Charter of Rights and Freedoms from which it draws its inspiration.

Furthermore, extending civil marriage to same sex partners takes absolutely nothing away from heterosexual couples who are already married or who want to marry. Many couples will continue to seek formal recognition of their relationship, with all its associated benefits and obligations.

Honourable senators, I am proud of the message we are sending to our homosexual constituents who have suffered from discrimination and stigmatization. We are telling them that, when they choose a life partner or when they meet the love of their life, their relationship is equal to a heterosexual relationship. As long as that couple stays together, they will receive the same recognition and, should they separate, they will receive the same protection. Legally, their partner will never again be considered a stranger, but rather their legitimate spouse.

Thanks to Bill C-38, we are also telling young homosexuals that they have no reason to be ashamed of who they are. Their difference is not a defect. Young gays and lesbians can also aspire to meeting someone whom they can marry and share their lives with, and even have children with. These young people will not experience their homosexuality as a life sentence of marginalization.

Bill C-38 is a reminder that the decision to get married or not is indeed a lifestyle choice. Sexual orientation is neither a choice nor a lifestyle.

Honourable senators, in the next few hours we will be voting on this important bill. It is my wish for us to join our voices with those of the courts, the tribunals, the House of Commons and Canadians who, in a poll this week, have asked us to move forward.

When I vote in favour of Bill C-38, it will be a great moment in my mandate as senator, since I will be joining my colleagues in building a fairer Canadian society. For many of our fellow citizens, this will be the last step in a lengthy fight for equality.

I cannot close without commending those who worked behind the scenes, directly or indirectly, to help Bill C-38 see the light of day and become law. I am thinking of Michael Hendricks, René Leboeuf, Michael Leshner and Michael Stark, Canadian representatives of Equal Marriage, Egale Canada, and the Coalition québécoise pour le mariage civil des conjoints de même sexe, to name a few. I know the effort it takes to move rights forward. This fight is fair and this cause is noble. Bravo!

[English]

Hon. Leonard J. Gustafson: Honourable senators, I am privileged to be able to say a few words tonight, and they will be very few. I want to state on the record that I am opposed to Bill C-38.

Senator St. Germain: Hear, hear!

Senator Gustafson: The situation here reminds me of when we voted in the House of Commons on the Constitution and civil rights. This is a very solemn occasion. Each one of us must examine our conscience and how we see a bill like this impacting the future of a country like Canada.

I feel that we are neglecting our children in this bill. I heard a statistic last week that startled me: Suicide is the number one killer of young people from the ages of 16 to 26. The children and young people of today are searching for answers in life. It is most important that we have an environment where they can be strengthened and where they can grow up to be strong men and women.

I am very concerned about this bill because I do not think we really understood exactly it involved. I am concerned from the point of view of the general public, and I am sure many honourable senators are finding the same thing as I am. You walk down the street and someone asks you about this bill. That is all I have heard. I have not run into people who are supporting this bill, so I wonder where these polls are coming from. I do not think they are a true poll of what is really happening out there with the general public. That happens to be the way I read the situation.

I just phoned the Saskatchewan legislature, and the woman I spoke with told me that she did a poll of her own. She just sent out an inquiry. I asked, "What did you get?" She said, "99 per cent." Now, that is Saskatchewan, and I do not think the sentiment is any different in Alberta or Manitoba.

• (1840)

My concern is for the public that has not been heard. Why has this bill been rushed through so quickly?

I want to read into the record some of the communications that have crossed my desk and have likely crossed the desks of all honourable senators. The first one is from the Evangelical Fellowship of Canada, which represents 75 churches and 140 organizations and denominations in about 11 per cent of the Canadian population. Their message reads:

We strongly urge you to take seriously your responsibilities to act as the Chamber of sober second thought and carefully consider the concerns expressed by so many Canadians about the implications that the passage of this bill would have on marriage, on religious freedom, and ultimately on Canadian society.

The second one I will read is from Campaign Life Coalition Manitoba, whose message is:

Marriage between a man and a woman is the only natural union that has the ability to procreate and sustain society.

The third one is from the Canadian Conference of Catholic Bishops. Their message reads:

The issues at stake are not only the basis and definition of marriage as established and celebrated since time immemorial by all religions and cultures and as inscribed in nature. What is also at risk is the future of marriage as a fundamental social institution, together with the importance that society accords the irreplaceable role of a husband and wife in conceiving and raising children. Their partnership ensures a stable context of family life, continuing with past and future generations, and gender models involving both mother and father.

Their message is extensive. They indicate how they feel about the situation and about this bill being forced upon Canadians.

The fourth one that I will read is from Dr. Mohan Rageer, physician and former professor in the Faculty of Health Science at McMaster University. His message reads:

A basic Hindu belief is that creation requires the union of two principles of God: one female, the other male.

The fifth one, from Rabbi Dr. David Novak, Professor of Jewish Studies at the University of Toronto, reads:

Same-sex marriage has no basis whatsoever in the normative Jewish tradition; indeed, it contradicts our tradition from its very beginnings in Biblical revelation.

The sixth one expresses the Sikh viewpoint as expressed by Nirmal Singh Dhillon, Producer/Director of Insight into Sikh Television. His message reads:

These are times of political correctness and self-image. Today, the social debates are not ruled by right or wrong...rather what is politically correct and what will portray one in a light that would make them more popular. In times like these, often the "right" takes a back seat. According to Sikhism "marriage" is a union between "husband" and "wife."

The seventh message that I will read was sent by Dr. Mobarak Ali, Imam of the Etobicoke Muslim Community Organization. It reads:

In Islam, marriage is a sacred institution, not simply a custom or tradition. By definition, a properly constituted marriage is between a male and female only.

The eighth one was sent by Reverend David Mainse, founder of Crossroads Television, 100 Huntley Street. His message reads:

A true believer in Jesus Christ follows "His" instructions and views on pro-traditional marriage. Marriage predates government. It is a religious covenant. Marriage is a union of "one man and one woman".

Honourable senators, there are many more letters on my desk that are opposed to the proposed legislation we are debating this evening. I will read one more into the record:

As a Senator, you are being asked to exercise sober second thought. In the name of our forbearers and all who have fought, suffered and died to uphold the timeless ideals that are at the core of our nation, please do not give your consent to the same-sex marriage legislation as presently presented to you by the House.

Honourable senators, this has been a friendly experience for me. I sat for 14 years in the House of Commons and have been in the Senate for 12 years now. I appreciate the Senate and the work that senators do, but we have great responsibilities. This is one of those moments when we truly need to search our souls. As we vote on this bill, I would urge all honourable senators to consider the many people who are writing to us because they are concerned about these issues. My hope is that the Senate does the right thing in respect of Bill C-38.

Hon. Jane Cordy: I wish to thank the honourable senators who have participated in the debate on Bill C-38. While passionate views have been expressed about the definition of marriage, I agree with others who have stated that the debate should be fair and balanced; and I believe it has been.

I would also agree that very few are on either extreme of the debate. In fact, it is important for all honourable senators to recognize that whether they vote for or against Bill C-38, those who spoke share many commonalities in this debate. This should be remembered at the end of the day.

Honourable senators, most of us grew up believing that marriage was between a man and a woman. That is the way it was. Most families in my neighbourhood had kids, but some did not and that was okay too. Their family consisted of a husband and a wife. As kids, never in our wildest dreams did we think of marriage as being between a man and a man or a woman and a woman. I am sure we can all remember the whispers and hurtful comments about and to someone who was suspected of being gay or lesbian. Is it any wonder they often hid their sexuality and pretended to be something they were not? A friend recently said to me, "Gays and lesbians have been getting married for years, just not to one another." Their attempt to fit in and be part of the so-called "norm" by marrying often hurt not only themselves but also their spouses and their children.

When I started teaching school in 1970, I had a class of 38 students. They all had a mother and a father. They all were children in traditional families. Was this a good thing? Well, for most it was but for some it was not.

In my last year of teaching in 2000, there were students in my school being raised by single mothers and single fathers. There were stepmothers and stepfathers. There were kids being raised by grandparents and kids being raised by foster parents. There were kids who had not met a biological parent.

• (1850)

Honourable senators, no matter how much we might wish it, the picture of the traditional family, with a mother, a father, two kids and a dog, is not the reality. It has been my experience as an elementary school teacher for 30 years that children thrive in a loving, caring, supportive home. The gender of the parents is not important. What is important is a family sharing mutual love, respect, responsibility and faithfulness.

Change is not easy. Looking at issues from a different perspective can be a challenge, particularly when the issue is marriage and we are looking at it in a way that is so dramatically different from what we grew up to know. It can make us feel uncomfortable and say, "Let us leave things as they are." Honourable senators, I do not believe we can do that. We cannot exclude people from proclaiming their love publicly by exchanging marriage vows because they are gay or lesbian.

I am a Catholic, and I think it is extremely important to look at the question of religious freedom. Bill C-38 respects the religious freedom guarantees of the Charter. Religious groups are ensured, as they should be, to refuse to solemnize same-sex marriages. Not only is the principle of religious freedom included in five separate places in the bill but the Supreme Court has consistently indicated that freedom of religion must be fully respected.

Allowing same-sex couples to marry will not diminish the marriage of an opposite-sex couple. Gay and lesbian couples can now live together. I suggest we do the right thing and allow them to marry.

Honourable senators, I agree with Senator LeBreton's comments on July 6. Let us decide on this issue and move on to

dealing with major issues facing us, such as medical waiting times, mental health, children living in poverty and safety and security for Canadians.

Senator Bryden once quoted me as saying in a magazine article that when you make a decision, you have to be able to look at yourself in the mirror and know that you have done the right thing. Honourable senators, for me, voting in favour of Bill C-38 is the right thing to do.

As I stated earlier, change is not always easy, but change is inevitable. In this case, we should not only risk the change but embrace the change — a change that demonstrates tolerance, acceptance and respect.

Some Hon. Senators: Hear, hear!

Hon. Consiglio Di Nino: Honourable senators, before I start reading the notes that I have prepared, I would like to challenge my friend Senator Cordy, a lady whom I respect greatly, and tell her that she is insulting me. Not only is she insulting me, she is insulting everybody who is voting against this bill for the right reasons.

The last time that I stood up, I said that it is disingenuous; it degenerates the debate to a level that I think is harmful to all sides when we suggest that someone has an exclusivity on love and respect and the proclamation to live together in a wonderful relationship. If that is what Senator Cordy and others are insinuating, that they only have the right to recognize, to understand what that means, and that some of us are suggesting that two people cannot live together in love, then they are wrong, and they are doing an injustice to this debate. I am insulted by that. I have never said that. If you read my comments, I have suggested that that is not what this debate is all about.

This afternoon I wanted to ask Senator Joyal some questions. Unfortunately, because of time limitations, I was unable to do that. Frankly, if I understood him correctly — and I have not read his words because I was trying to follow what the honourable senator was saying — I want to congratulate him because I got from his words something I had not got from the debate thus far. That is that he wants to change the definition of marriage. That is what I understood from his comments. I think that is at least an honest description of what this debate is all about, because it really is dishonest to talk about love and respect and all the good things that make the union of two people a meaningful one or a fulfilling one. I think that is the right way to go about it, and I disagree with Senator Joyal in that sense.

I want to make a couple of points on which I intended to ask questions, dealing with religious freedom. He said that no one can be forced to perform marriage ceremonies if it is against their religious beliefs. Some 30-odd people have had to leave their jobs — and I will speak more about that later when I read my notes — in Newfoundland, Saskatchewan and I cannot remember the other province, but I have it in my notes.

That is not religious freedom. I think it was Senator Joyal, if not someone else, who mentioned that the Knights of Columbus refused to rent their hall for the celebration of a same-sex marriage. They are being chastised and I think their decision is being challenged; they are being called bigots and things of this nature. That is not religious freedom.

I think Senator Joyal said, and I agree with him and I support him on this, that it is about restoring the dignity of some human beings. I have always supported that and I will continue to do that, but we should not do that at the cost of destroying the dignity of some others. I think that is what this bill would likely end up doing.

The debate on Bill C-38 has helped create a state of intolerance and divisiveness, as we have seen even in this chamber, particularly at the extremes, widening the gulf between all sides of the issue. This will make it more difficult to reconcile the difference created; and reconcile them we must if we are to continue to live in harmony as an understanding and tolerant society.

I put the blame squarely on the shoulders of Mr. Martin. He has shown he lacks the leadership qualities necessary to stickhandle an issue of conscience such as this. For me, the frustration is that I truly believe that the acrimony and conflict could have been avoided; and many Canadians, both heterosexual and homosexual, agree with me.

There are those who confuse the dialogue with talks of rights and privileges, as well as those who speak of love and respect as if some group or other could lay exclusive claim to these qualities. These are false arguments and do not do justice to the seriousness of this debate.

The vast majority of Canadians have supported, and continue to support, full and equal rights and privileges for all Canadians; and yes, with some struggle, the extension of full rights and benefits to same-sex couples is now a reality most Canadians accept and agree with. So what is this debate all about? For me, it is simple; it is about an eight-letter word — marriage. Those of you who were not present when Senator Banks spoke on this issue would do well to read his comments.

• (1900)

This debate is not about love and respect, as some would have us believe, nor is it about same-sex couples joining in a lifelong relationship of support, comfort, responsibility and, yes, love. Our communities have mostly accepted this and it is now, or soon will be, a reality across our country, as it should be.

For me, and I believe the majority of Canadians, it is the word "marriage" that defines — and has defined for centuries, at least — the union of a man and a woman. This is something that most members of the other place believed not so long ago. I was disappointed to see that a number of our colleagues in the other place, on their way to cabinet or parliamentary secretarial posts, changed their minds and their hearts on this issue.

I honestly believe that we could have avoided most of the acrimony and divisiveness by inviting the stakeholders to find a solution, which I am convinced exists. When an honourable settlement to a difficult issue is reached, both sides leave the table somewhat unhappy because they have both left something on the table. In an honourable settlement there can be no absolute winner or loser, as this Liberal government is forcing us to accept on this issue. We are a legislature. We make laws, and, in harmony with the stakeholders, we can create laws or change laws to honourably accommodate both sides of this issue. However, I guess that will not happen. I can count.

Another concern that some of us have is the impact that this discordant debate will have on religious organizations and conscientious objectors. I was struck by letters to the editor in Saturday's *Globe and Mail* in response to Cardinal Ouellet's recent comments on the risks the church will face of being branded homophobic if the church refuses to marry same-sex couples.

I will quote from two of those letters to the editor. One reads:

The good cardinal need not worry. It's not a question of what you call it: The law allows churches to be homophobic if they are asked to marry a gay couple, just as they can be non-inclusive about who can receive sacraments and picky about whose children can be baptized. It's their club and they run it their own way.

Another letter states:

I'm not sure which is more offensive — his assumption that bigotry and homophobia are somehow entitled to protection because of their religious origins, or the chutzpah involved in talking to the media about how you feel you can't express yourself.

I understand there have been many more, and you can bet that many of them would be unprintable.

As well, a story in today's *Globe and Mail* tells of a man who is caught in the middle of this divisive conflict. A Mr. Orville Nichols, a marriage counsellor in Regina, faces losing his job because of his refusal to marry same-sex couples, which he states is against his religious and personal beliefs. So much for religious freedom, and the law is not even passed yet.

The story also reveals the following:

In Newfoundland, at least one in 10 marriage commissioners resigned after the province said they must perform the ceremonies. In Manitoba, where a similar edict is in effect, at least 12 commissioners have resigned. And in Saskatchewan, at least eight of the commissioners have quit, but Mr. Nichols refused to join them.

I would like to extend my congratulations to Mr. Nichols for standing his ground and fighting on behalf of those who are caught in the middle of what should have been an avoidable conflict. These divisions, this acrimony, these risks of potential

future consequences, need not have existed if the Martin government had had the courage to confront this issue on behalf of all Canadians and had encouraged both sides to reach an honourable and fair compromise. However, Mr. Martin, a dithering and ineffective Prime Minister, chose his way because, perhaps like some others, he speaks to God and only he has the answers

I must admit that some years ago I was prepared to give Mr. Martin the benefit of the doubt. I had hoped that he would make a good prime minister, particularly after the performance of his predecessor. How wrong I was. The way he has handled this debate has proven beyond doubt, at least to me, that he will go down in history as one of the worst examples of political leadership in this country. Even worse, I fear that the reaction of many Canadians who feel marginalized by this issue will create a very difficult wound to heal. I hope that we can soon find the leadership that is missing in the Martin government in order to begin to heal the rifts that now exist in Canadian communities — rifts that have been seriously inflamed by the debates on this issue.

Honourable senators, I fear that this debate is far from over. If we in this chamber have a real role to play in the development of public policy, we must confront such issues on behalf of all Canadians and all stakeholders of all regions of our country with openness, fairness and empathy, without taking sides, for no one has exclusiveness on right or wrong, on wisdom, or on goodness or evil. Let us pray we find the wisdom to recognize this.

Hon. Senators: Hear, hear!

Hon. Noël A. Kinsella (Leader of the Opposition): In addition to commissioners of marriage, clerks of the Federal Court have the authority to witness marriages. Has Senator Di Nino heard whether the Department of Justice, under the authority of the Minister of Justice, obviously, is conducting an inquiry to determine which Federal Court clerks will and will not perform same-sex marriages, should the bill pass?

Senator Di Nino: Although I have not heard this officially, I have heard rumours that this is happening, not only with regard to clerks but also with regard to other government officials who must deal with this issue. I believe that their roles in this matter will be raised quite soon.

My fear is that, as is happening in the provinces, they will either be forced to perform the ceremonies against their religious beliefs or they will quit their jobs. I hope I am wrong. I have only heard rumours and nothing official. Perhaps Senator Kinsella has more information than I have.

Senator Kinsella: Senator Joyal directed our attention to the principle of reasonable accommodation, but I hasten to add that the principle of reasonable accommodation under human rights statutory law in Canada operates on the basis of the *de minimis* principle. The jurisprudence has established that it is a minimal requirement to reasonably accommodate.

To the question of Federal Court clerks being asked by the Department of Justice whether they would conduct such marriages, and that if they would not they would have to

indicate that it is for religious reasons, does Senator Di Nino have any sense of what impact that declaration by a Federal Court clerk would have on that clerk's career progression?

Senator Di Nino: I thank Senator Kinsella for that question. My guess would be that the process of advancement would be cut off. I suspect that they would probably suffer the consequences of their actions.

• (1910)

We are just beginning to see the effect this legislation — if it is finally passed by this body — will have on a number of areas across this country, including attacks on the church by extreme, homophobic folks on one side of the issue or attacks on other organizations, whether they be Christian, Jewish, Muslim or Hindu.

I agree with Senator Kinsella that this issue has raised its ugly head and will probably impact negatively on those who, because of religious beliefs, will not follow the laws of the country as they are written now.

Hon. David P. Smith: Honourable senators, I rise to speak in support of Bill C-38. It is important to me that my views be on the record. I hope that as I go on, it will be clear why I feel strongly about this.

I am and have always been a strong supporter of the Charter and, in particular, those concepts that relate to the issue of minority rights. Like Senator Joyal and Senator Gustafson, I was a member of Parliament in 1981 when the Charter was adopted. Certain episodes are among my fondest memories of public life.

I recall the events surrounding people with disabilities. In 1980, Prime Minister Trudeau appointed me as the chair of a special committee to review the issue of disabled persons, both physical and mental. The United Nations declared 1981 to be the International Year of Disabled Persons. We went across the country and had over 600 deputations. We brought in a report in February of 1981. A few months later, when the first draft of the Charter came out, there was no reference in section 15 to physical or mental disabilities. I was upset beyond belief. I got up in caucus. Some of those caucus sessions were like primal scream therapy sessions. I remember one cause that Senator Prud'homme championed, not successfully, but he had a point.

I spoke about five times to say why it was important that there be a reference to people with physical and mental disabilities. I was getting discouraged and some people would say privately, "We don't know what it means; we don't know what the courts will say. It might mean costly decisions." I said, "You have to believe that the courts will interpret this practically." After the fifth time, I was walking back to Centre Block and former Senator MacEachen put his arm around me and said, "Don't give up; you're doing the right thing."

I will never forget that next week in caucus. When I got up and I started to speak, Mr. Trudeau stood up and said, "David, we do not have to listen to that speech again; we are putting it in because it is the right thing to do."

Some Hon. Senators: Hear, hear!

Senator Smith: Honourable senators, I can read section 15. It is good sometimes to get back to basics:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Honourable senators are familiar with how the courts have interpreted the relevance of the word "sex" in the Charter. I readily admit that when we were debating the Charter, the issue of same-sex marriage was not remotely on anyone's horizon. I agree with the direction in which the courts have gone.

I should point out by way of disclosure — not by way of conflict — as some of you are aware, my wife is the Chief Justice of the Superior Court of Ontario. She chaired the panel when the matter went to the divisional court. That panel unanimously agreed that the issue did offend the Charter; they said that this was a fundamental issue that they thought should be determined by Parliament and they gave Parliament two years to deal with it. I agreed with that. Parliamentarians should grapple with these issues head-on.

When this matter went to the Court of Appeal, the Court of Appeal said, "We are implementing it immediately." It has been more than two years, so it does not matter now. Senator Joyal has given a thorough overview of the law, and I do not wish to repeat those legal arguments.

I wish to come at this discussion from one particular perspective. I know that some Canadians believe that Bill C-38 interferes with the freedom of conscience of religion found in section 2 of the Charter. I am particularly sensitive to this viewpoint because, my very good friend — and we will always be friends — Senator Gustafson, and I both come from evangelical backgrounds. I am very close to the evangelical community. I have a great affinity and understand the perspectives of this community. I know that this body has been at the forefront of the opposition to this proposed legislation.

My late father, my grandfather, both of my brothers, an uncle, a nephew and three first cousins were or are all ordained ministers, and they are all evangelical. Most representatives from that community have spoken out and reacted negatively. While I respect their point of view and have an affinity with the community, I do not really react that way at all.

I regard myself as a Christian. To me, Christianity means many things. It means love, understanding, compassion, respect for fellow human beings, tolerance and equality of rights. I believe that this issue deals with equality, the Charter and minority rights. I do not accept that it really is an issue that is a religious or faith issue.

Section 2 remains in the Charter. Section 2 says:

Everyone has the following fundamental freedoms:

a) freedom of conscience and religion...

Clause 3 remains in the bill and clause 3.1 has been added, which says: "For greater certainty..." What could be clearer than that? Clause 3.1 is a lengthy reinforcement of clause 3.

Regardless of what my particular religious beliefs are, or anyone's beliefs or non-beliefs, if they are agnostic, atheist or whatever, I am a firm believer in the separation of church and state. I do not want my laws of the country that I live in to be determined by preachers, mullahs, rabbis, cardinals or priests. I want laws to be determined by bodies, primarily in the elected chamber, but also in this chamber in Canada that represents everyone.

I know that there have been suggestions and fears that some priests, rabbis, mullahs and evangelical preachers will be forced to perform marriages against their beliefs. I do not buy that. I do not think the law could be clearer the way it is written. There is nothing new about this.

Honourable senators are familiar with the view of priests regarding marrying divorced persons. Some orthodox rabbis would not perform a marriage if one person of the couple was from a conservative or reform group. Some Hassidic sects would not perform marriages if one person of the couple was from another Hassidic sect. I can tell you about some of the eccentricities of various evangelical preachers, which you almost have to smile at. The point is that there is nothing new about this dynamic. Have you ever heard of a court forcing any of them to perform those kinds of marriages? Can you cite me a case?

Senator St. Germain: Saskatchewan did it.

• (1920)

Senator Smith: It is a different matter where it is a paid employee of the provincial government.

An Hon. Senator: What is the difference?

Senator Smith: I regret that there has been some fear-mongering that has crept into the debate, perhaps not here in this chamber so much — I think this has been a good debate — but out in the public. I do not think there are any suggestions that hold any water whatsoever that that perspective has any basis.

I want to close on another perspective, which may not affect anyone's thinking other than mine. It may not be politically correct. You may not think it is relevant to anything. I will mention it, for what it is worth.

I have known some people who were very hostile to anyone from the gay community. I can think of three particular families I have known. Much of the hostility had to do with religious beliefs. All of a sudden, they found out that someone in their family was gay. It affected their thinking. It affected their thinking because this was someone they knew and loved and that they thought should have rights.

I have many gay friends who have talked frankly and candidly to me about what it was like to grow up having a gay orientation. In several instances, I asked, "When did you first feel that way?" Without exception, they all said that they had always felt that way.

I know a young man who had known this all his life. He came from a broken family. He was raised by his grandparents. They took him to a camp where we had a place. He was the same age as my twin daughters. The families were very good friends. From the time he was three, I thought he would be gay, and he was. My daughters go every year to the Gay Pride parade in Toronto to show support for their friend. They think he deserves equal rights. I am proud of them for doing that.

Last week I was in England, where I saw an article in the *Times* of London about a book that has just been published. The article is entitled "Born gay or made gay: which camp are you in? Sexual orientation is fixed at birth, a challenging new book claims." The name of the book is *Born Gay: The Psychobiology of Sex Orientation*. I am not a scientist. I cannot say anything about the validity of the science in the book, but it confirms my instincts over the years. Some of you may think that this is not relevant to anything, but it reinforces my view.

My friends on the other side, I love you; I respect our faiths. We will continue to be friends and have fellowship together. I just have a different perspective. I want to reach out to this community and give them the minority rights that the Charter promises them.

Senator Cools: Honourable senators —

The Hon. the Speaker pro tempore: Senator Cools, there are senators who have not spoken at all. You have spoken once.

Hon. Terry Stratton (Deputy Leader of the Opposition): I have a point of order. Senator Cools spoke to the amendment. She now wants to speak to the bill itself. I think that is wholly appropriate.

Honourable senators, are we on the amendment or are we on the bill? Senators have spoken to the bill itself and others have spoken to the amendment.

The Hon. the Speaker pro tempore: We are on the amendment.

Senator Stratton: When will you tell us that we are on the bill itself? Senators on both sides are assuming that we are speaking to the bill. There has been no clear understanding in this chamber whatsoever of what we are speaking to.

The Hon. the Speaker pro tempore: Are we ready for the question on the amendment?

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I would tend to agree with Senator Stratton's analysis that senators have been speaking on both the amendment and the bill. The chair has quite rightly recognized senators as they have stood, and they have spoken either to the

amendment or to the bill. There was clearly an understanding, certainly among the senators on our side, that they could speak to either the amendment or the bill.

We would be quite content to hear senators on the amendment or on the bill.

The Hon. the Speaker pro tempore: May I ask a question for edification? Will senators be allowed to speak twice, prior to someone who has never spoken? I want to know what the agreement was.

Hon. Marcel Prud'homme: I have a point of order. I have raised it privately and I will do it publicly. We are at this time, agreement or not, on an amendment. If there was to be a multiplicity of amendments, which I do not think would be the case, any senator, regardless if whether there was agreement or not, would be able to speak on any amendment as long as they spoke once on any amendment. We must first dispose of the amendment and then go to the final reading and final vote.

If some senators have chosen to speak to both the amendment and the main bill, so be it. I think that is quite fair. They will not repeat their own speech. We will listen to them.

I do not intend to participate in the debate on the amendment, but I intend to participate on third reading. I want this to be clear. This is the rule; this is correct, and this is the way to go. Senator Cools can get up now and ask questions, but she has already spoken to the amendment. She is a good friend, which I will not deny, but if she wants to do so, she can speak later on. Now she can ask questions, if time has not expired, but she has spoken to the amendment, technically speaking, according to the Rules of the Senate. There may have been agreement, but in this corner we are unaware of any agreement where everyone would speak to both together and then we will have a final vote.

The vote will take place when the debate on the amendment is finished, at which time we will go to third reading. There may not be any speech on third reading, but I will be speaking on third reading.

The Hon. the Speaker: For clarification, this is Senator Prud'homme's point of order. Just so that I can clarify, Senator Cools, is the point of order as to whether or not the speeches given are relevant to the amendment, or is it whether or not, as you have correctly recited the rules of the Senate, one can speak once to an amendment and one can speak once to the main motion?

Senator Cools: Thank you, honourable senators. Let me say quickly that I am always concerned when we proceed in this way. It should always be clear, on every point in the process and the proceedings, what the question is before us.

I was under the impression that we were on the main motion, so let me be crystal clear. I earlier exercised my right to speak to the amendment. Now I am exercising my right to speak to the main motion, which is the motion for third reading, correct?

The Hon. the Speaker: When we are on the main motion, you can speak. We are now on the amendment. Is that understood?

Senator Cools: Are we on Senator Kinsella's motion in amendment or are we on the main motion?

The Hon. the Speaker: Honourable senators, perhaps I can clarify. My understanding of where we are is as follows: We are debating Bill C-38 at third reading stage. We had, I believe, Senator Joyal, Senator St. Germain, Senator Austin and Senator Stratton speak to the main motion at third reading stage.

• (1930)

Senator St. Germain proposed a "hoist" amendment, which we voted on. It was defeated.

Then we resumed debate, and Senator Kinsella moved an amendment. We are on that amendment at the present time. When we have disposed of debate on the amendment, we will then dispose of the amendment. When we have done that, we will be back on the main motion.

Senator Cools spoke to the amendment, but she has not spoken on the main motion, to my knowledge. I will double-check with the table. She will be entitled to do so when we reach that point in the proceedings.

Senator Cools: I will comply with that, but I was clearly under the impression that the last several speakers on the other side were speaking to the main motion because I did not hear them express any opinion for or against Senator Kinsella's amendment. I therefore inferred that we had moved on.

The Hon. the Speaker: I can understand how that happens because, as is our practice sometimes, we are very liberal in our interpretation of what is relevant to an amendment or to the main motion. That sometimes happens. It is an interesting matter in terms of our practice, but there is nothing new about it. No one has objected to it, that I have heard.

It is now in order for us to continue debate at third reading stage on the amendment of Senator Kinsella.

Senator Rompkey: Honourable senators, perhaps we could have an understanding that the speeches up to now have been on the amendment, that they are now concluded, and that speakers from now on will be on the main motion so that at the end of the day we could have our votes and conclude it in that way. I think it would be preferable to have all the votes together at the end of the day. If we can agree that speeches up to now have been on the amendment, speeches from now on will be on the main motion and then we can have our votes.

Senator Stratton: This side would concur with that. There has been confusion, obviously, but we would agree that the speeches to date have been on the amendment. From here on, they will be on the main motion itself. We will then deal with the votes right at the end, both with respect to the amendment and to the bill itself.

The Hon. the Speaker: It might be helpful to remind honourable senators that we have had a practice in the past, particularly when we have more than one amendment, of allowing senators to address either the amendment or the main motion in their remarks. On a de facto basis, that is what we have been doing.

It is difficult to proceed as suggested in that the words you use preclude a speech on the amendment. I do not know that that would be in accordance with our proceedings. However, if we simply clarified that these speeches may be addressing the amendment or the main motion, as has, in my opinion, been the case since Senator Kinsella's amendment was moved, then that understanding would hopefully clarify for everyone that it is in order to speak. If you address your comments to touch on the amendment, that is fine. If you address comments on the main motion, that is also fine. Unless we get another amendment, that should work well. If we get another amendment, we have a precedent for that, and that is what we call "stacking" amendments. However, we should not deal with that unless we encounter that problem.

With your permission, I would suggest we resume the debate.

Hon. Senators: Agreed.

The Hon. the Speaker: Senator Smith, were you finished?

Senator Smith: Yes, I am finished.

The Hon. the Speaker: I was about to turn to Senator Stratton. Do you want to comment, Senator Cools?

Senator Cools: Senator Stratton, my leader, had pointed to me and told me to go, so I went. I thought I was being very compliant.

The Hon. the Speaker: I did not deal with that. Senator Cools and Senator Prud'homme are both rising on that.

The second speeches should, I think, be given at the appropriate time, which is when we have disposed of the amendment. We could dispose of the amendment now, if you wish.

Some Hon. Senators: No.

The Hon. the Speaker: Or we could do it later, but if we do not do that, then we will have a little bit of trouble keeping track of who has spoken twice and who has spoken once. I would propose to see Senator Cools when we have disposed of the amendment.

Senator Cools: I think, Your Honour, that the leaders have got together and seem to have agreed that this is the way to proceed, based on what they just said. In other words, perhaps the way they are asking us to proceed is that when you rise, you say if you are speaking to the amendment or to the main motion. Is that my understanding, Senator Rompkey?

The Hon. the Speaker: Honourable senators, could we just proceed by way of leave? Senator Cools will now give her speech on the main motion. Is it agreed?

Hon. Senators: Agreed.

Senator Prud'homme: I am sorry, but I will not give leave. The Senate has to show an example. Everything has been going fine so far and has proceeded in an orderly fashion. It is the same subject. Some members may have spoken as though they were on third reading. I have no objection to that, because that means they will not repeat their speech. Now we should dispose of the amendment intelligently and call for a vote on it. That could be very rapid, depending on the whips. Then we fall back on the main motion.

For some, the vote may be different, and not only the vote may be different but the arguments could be different. I do not think we should mix the two. You have been proceeding in an orderly fashion, leaving a lot of leeway in the debate, but I think now we are on the amendment.

With all due respect to my friend and hardworking colleague Senator Cools, she has spoken to the amendment. Let us dispose of it. Are there any other senators who wish to speak to the amendment? If not, call the vote. Unless there is a new amendment, which I do not think will happen, then we fall back on third reading.

On third reading, those who have already spoken to the amendment and at third reading will most likely not repeat themselves. Very few people may see fit to speak on third reading only and not the amendment. For me, at this late time, it would seem logical to proceed that way, and it would be according to the rules.

There may have been an agreement between some that we mix the two together. The danger, when you do not follow the rules and mix the two together, is that some think we are talking on third reading, and they make their speech on that. Others are under the impression that we are talking about the amendment, and they make their speech on that. That is my impression.

I see a ruling from His Honour that is already clear. He will say, "Do any other honourable senators wish to speak to the amendment? If not, we will dispose of the amendment." Then we will be on third reading and can have an intelligent debate so that everyone can understand what is going on.

Hon. Jack Austin (Leader of the Government): Honourable senators, I think the only way to deal with this matter is in the orderly way that we normally follow. I would propose, then, that we call the question on the amendment, unless there are other speakers who wish to speak on the amendment. We can have the vote on the amendment and then proceed to third reading, as Senator Prud'homme has suggested.

The Hon. the Speaker: That is a good idea. There is only this to add: Senator Banks would like to make a subamendment to the amendment; is that correct?

Senator Banks: Yes.

The Hon. the Speaker: For him to be able to do that, we have to stay on the amendment. I propose now to see Senator Banks and then follow the suggestion made by Senator Austin and deal with the amendment and the subamendment, assuming the subamendment is in order.

Hon. Tommy Banks: Honourable senators, I first want to say that I wish that all of the people who are critical of the way this bill is being handled in Parliament had been here to see the debate at second reading, had seen the proceedings of the committee over the last week and were here today, because it would remove and give the lie to any suggestion of anything that is colloquially referred to as "ramming through." It is very clear that that is not happening. This bill is being dealt with carefully and thoroughly on all sides, and I am grateful for the opportunity to make a contribution.

When Senator Carstairs spoke at second reading, she made a heartfelt and emotional — not to say dramatic — point at the end of her speech. It has been referred to today to the effect that if one of her children came to her and said, "I would like you to meet my new life partner," and it was a person of the same gender, she would not want anything to fail to be done in law that would ensure that her child should enjoy all of the benefits that she has enjoyed from her many years of happy marriage. I do not think anyone in this chamber or any rational person would want to preclude any Canadian from experiencing the joys, comfort, pleasures and benefits, both economic and social, that flow from marriage. I would hope that no one would ever suggest such a thing.

• (1940)

The question is this: How can we ensure that those rights exist and are accessible to every Canadian? How can that be done? There is no question about the thoroughness of the debate on this bill and the debate that will follow. The argument that causes me concern is that this bill is the only way to ensure that all Canadians have those rights that flow from marriage by removing distinctions that may exist as between one kind of marriage and another kind of marriage. The argument is that by merely allowing such a distinction to be made, the rights of Canadians will be infringed upon. That, in my view, is where the argument comes apart or is the point at which I become so dense that I can no longer follow the argument that has led to the conclusion that this bill is the only way.

Honourable senators, we already have two orders of marriage in Canada. Two kinds of marriage in Canada are recognized by and operate under the laws of Canada each day. On the one hand, we have traditional marriage, as it is universally understood and referred to by some, and on the other hand, we have common-law marriage. It is referred to and operates as common-law marriage. As we heard today, 1,200,000 Canadians are in that institution of marriage. It is still marriage but it is defined. It has a modifier before the operative word. It is different, distinct and is described differently. Both kinds of marriage legally exist, Both are legally recognized and are common in our country, yet they are acknowledged as being distinct and are referred to by different names in law because they are not the same thing. They are not referred to separately, I believe, on customs entry slips or on passport applications. They simply reflect reality.

Does that distinction between two kinds of marriage, two kinds of relationships, two orders of marriage result in the infringement of anyone's rights? No, it does not because the Supreme Court of

Canada said that it does not infringe on rights. In its decision in the matter of the *Nova Scotia (Attorney General) v. Walsh* delivered on December 20, 2002, the Supreme Court of Canada said:

The exclusion...of unmarried cohabiting persons of the opposite sex is not discriminatory within the meaning of s. 15(1) of the *Charter*. The distinction does not affect the dignity of these persons and does not deny them access to a benefit or advantage available to married persons.

In the same ruling, commenting on the existence of marriage and common law marriage, the court stated:

...the distinction reflects and corresponds to the differences between those relationships and as it respects the fundamental personal autonomy and dignity of the individual. In this context, the dignity of common law spouses cannot be said to be affected adversely.

Therefore, an order of marriage that is different from "marriage" as it is universally understood and which is described differently to reflect that difference is not, simply and only because it is described by a different term, discriminatory. The distinction does not affect the dignity of the persons described.

Therefore, a third order of marriage, such as the one proposed by Senator Kinsella in his amendment, as between persons of the same gender, would not be discriminatory. It would not affect the dignity of the individuals, provided care is taken that within the establishment of such a third order that the rights, benefits and obligations to be enjoyed by those persons are identical to those of marriage.

Honourable senators, the preamble to Bill C-38 contains a "Whereas" stating that Parliament's constitutional jurisdiction does not extend to creating an institution other than marriage for same-sex couples, or for anyone else; and that is absolutely correct. However, there is nothing in the Constitution that says Parliament cannot create or permit, as it has created or permitted the order of marriage called "common law," a third such order described in terms that are not in any way pejorative or mean or lacking in dignity. Section 91 of the Charter lists those things that are the exclusive purview of Parliament. Subsection 26 gives Parliament the exclusive legislative authority over matters having to do with marriage and divorce. Therefore, Parliament can, and in my view should, make such a distinction. In doing so, we must take care to ensure that such an order of marriage would be entirely consistent with the intention of and in conformity with the Charter and that, in the words of the court, "...reflects and corresponds to the differences between those relationships and...respects the fundamental personal autonomy and dignity of the individual.

Honourable senators, it was pointed out earlier that the Supreme Court declined to answer the fourth question on whether a definition of marriage as that of a woman and a man would contravene the Constitution. I suspect that if Parliament had defined in law the thing which it put in the 1999 resolution of

the House of Commons, then the Supreme Court might have answered the rest of the reference questions differently. The court said that in the present law, as it reads, there is no possible rational exclusion of same-sex couples from marriage. If there had been such a definition, then there might have been a different answer.

We have had a full debate on this bill, honourable senators. In terms of making the distinction, Senator Kinsella has approached it in the right way.

• (1950)

I apologize for having the temerity to do this, but I wish to move a subamendment to Senator Kinsella's amendment. I accept the argument that was made in respect of that amendment by Senator Joyal, which is that by the placement of the notwithstanding paragraph that Senator Kinsella proposes as paragraph 2 in the act — that is section 2 in the act, immediately after the title — and then the wording describing the intent of the act now as the second banana, if you like, in the bill, that that places the intent in a secondary position. I think that can be improved.

MOTION IN SUBAMENDMENT

Hon. Tommy Banks: I therefore move, seconded by Senator Corbin:

That the motion in amendment be amended by:

- (a) deleting the new clause 2 in the proposed amendment and,
- (b) deleting the new clause 3 in the proposed amendment and substituting therefor:
 - **"3.** Notwithstanding section 2, Parliament has recognized and continues to recognize the traditional marriage of a woman and a man; and
- (c) by renumbering clauses 3 to 15 as clauses 4 to 16 and all cross-references accordingly

The Hon. the Speaker: It is moved by the Honourable Senator Banks, seconded by the Honourable Senator Corbin:

That the motion in amendment be amended by:

- (a) deleting the new clause 2 in the proposed amendment and.
- (b) deleting the new clause 3 in the proposed amendment and substituting therefor:
 - "3. Notwithstanding section 2, Parliament has recognized and continues to recognize the traditional marriage of a woman and a man; and,
- (c) by renumbering clauses 3 to 15 as clauses 4 to 16, and all cross-references accordingly

How much time does Senator Banks have? Two minutes? I am not sure whether he wishes to speak further or whether he would take two minutes' worth of questions.

Hon. Marcel Prud'homme: With patience we will get to the end of the day, but in my humble submission to you, this is not a subamendment. I wish you to consider it right on the spot. To me, this is a new amendment. We should dispose of the actual amendment and then that would be a new amendment.

I am of the opinion that this is more than a subamendment to an amendment to a bill. I submit that for reflection. We do not need to adjourn the Senate for that. I think this is an amendment that should be put to us once we have disposed of the amendment of Senator Kinsella. I am open, of course, for your explanation.

The Hon. the Speaker: Honourable senators, I have had the benefit of the time that it took Senator Banks to speak to review the amendment that he eventually moved, and to discuss with the table the orderliness of that amendment, which Senator Banks had taken the steps earlier of discussing with the table and consulting the text and rules. I am concluding, based on my understanding of that procedure — and I admit to certain assistance — that the subamendment is in order.

Accordingly, we are now on the subamendment. Senator Banks is out of time, but we need to dispose of that before we get on to the amendment, and then dispose of that before we get on to the main motion.

Hon. Jack Austin (Leader of the Government): Honourable senators, speaking to the subamendment, first I want to say that it is well known in the chamber that Senator Banks has not supported Bill C-38. He spoke in opposition to that bill on second reading, as honourable senators will recall. Second, Senator Banks advised me after this debate had commenced this evening that he was proposing this particular subamendment.

I want to say as plainly as I possibly can that there is only one definition that we can see under the Charter for the word "marriage" — for the concept of marriage as is the constitutional responsibility of the federal government — and that is the marriage of one eligible person to another eligible person. Anything else is categorization; anything else is intended for its purpose to undermine the simple definition which points at equality.

I understand Senator Banks' goodwill, and that of Senator Kinsella as well. However, these are amendments that are not in the policy and principle of this bill. I urge honourable senators to understand that, and to proceed to deal with the subamendment and the amendment at this time.

Some Hon. Senators: Ouestion!

Hon. Jerahmiel S. Grafstein: Honourable senators, I intend to speak on third reading and I will very brief on both the amendment and subamendment.

To my mind, while it is very alluring, it is contrary to my reading of the Charter because the difference between the common law and traditional marriage as defined by Senator Banks, and now this other category as provided by Senator Kinsella, forgets one thing, and that is individual choice—individual freedom and individual choice. There is no individual choice for someone of the same sex to make a decision based on categorization. That is why it says clearly in the bill "guarantees every individual is equal before and under the law"; and the third, "whereas everyone has the freedom of conscience of religion." What is absent here is individual rights and individual choice.

Some Hon. Senators: Ouestion!

[Translation]

Hon. Céline Hervieux-Payette: Honourable senators, it seems to me that we are discussing the subamendment, the amendment, and the bill. I will, if I may, address all three in my speech.

Honourable senators, it is with great humility that I approach consideration at third reading of Bill C-38. For the past two years, I have been trying to grasp the essence of this bill and its significance for future generations. This is why I want to share with you, and with all interested Canadians, the results of my research into the meaning of the institution of marriage and its effects on future generations of children.

A proper understanding of the reasons behind Bill C-38 requires reference to the British North America Act which was enacted by the Fathers of Confederation, and gave jurisdiction over marriage to the federal government under section 91. Since the rights arising out of marriage were in large part civil in nature, and thus under provincial jurisdiction, they ought to have been in section 92. In order to achieve constitutional consensus for religious reasons — Quebec refusing to recognize divorce in 1867, and for more than 100 years — "for better or for worse," the legislative authority over marriage has ended up with the Parliament of Canada.

We must not forget that not so long ago the Senate had to adopt private bills in order to grant divorces in Quebec marriages. Today, we are being asked to extend the definition of marriage to couples of the same sex, when the original legal definition of marriage was the union of a man and a woman; the only definition recognized in civil law — excluding what Senator Banks referred to, common-law marriage, which does not exist in Quebec.

I sponsored a lexicological study from the time dictionaries were first published, the sixteenth century. It was carried out by Natalia Teplova, James McGill Research Chair doctoral student in the Department of French Language and Literature, under the guidance of Professor Marc Angenot. I tabled this study with the Senate Standing Committee on Legal and Constitutional Affairs. I would simply like to give you an overview of the definitions right up to the most recent one in the *Petit Larousse 2006*, which my colleague Senator Joyal omitted. I refer briefly to the study.

Initially, in 1694, marriage was the union of a man and a woman in a conjugal relationship.

• (2000)

Later in the 19th century:

The lawful union of a man and a woman, marriage is a sacrament that sanctifies the lawful association a man and woman enter into together to have children and to raise them as Christians. Once this association is established between Christians, it can only be dissolved by the death of both spouses.

This definition is from the *Nouveau dictionnaire universel illustré*, published by Paul Guérin and G. Bovier-Lapierre.

In the 20th century, Émile Littré's *Dictionnaire de langue* française provides the following definition:

The union of a man and a woman consecrated either by an ecclesiastical authority, a civil authority, or both.

Finally, the *Larousse* 2006, which will be published in September, says it is:

The formal act of joining together a man and a woman, the conditions, the effects and the dissolution of which are governed by the legal provisions in effect in their country, by their religious laws or by their customs.

I relied on various versions that have been published in order to comprehend the meaning of the institution we are preparing to change quite significantly.

Contrary to remarks made by a witness in committee, who denied the scientific aspect of dictionary writing, I think these linguistic guides allow us, legally speaking, to arrive at an understanding of a concept or a word by accepting lexicological definitions. If we did not use these dictionaries to govern our discussions, then we as legislators would have a difficult time carrying out our mandate.

I agree with Senator Banks that it is not the role of legislators to replace lexicographers. I conclude that marriage is the union of a man and a woman and almost always for the purpose of procreation.

However, senators must ensure that our legislation complies with the Charter of Rights and Freedoms.

I had the privilege of taking part in the adoption of the constitutional amendments of 1982 and, in particular, of fighting alongside the few women who sat in Parliament back then, in support of section 15 of the Charter, which extended equality rights to women as well as men.

A significant number of Canadian laws had to be amended after the charter was adopted. These amendments were made over the next five years. As far as I can recall, setting out special rights for gays and lesbians was never an issue because the charter protected their rights. Section 15 recognized the right to equality, but did not change the fundamental nature of individuals. No one was creating a third type of individual. The right to equality was not a denial of the right to be different.

In order to better understand the concept of equal marriage, I want to quote a few statements made by one of the major advocates of minority rights, Mr. Julius Grey, which were published in an article in *Policy Options* magazine, volume 24, number 9:

[English]

"Equality rights versus the right to marriage — toward the path of Canadian compromise":

[Translation]

Since this is an extremely long article, I will summarize Mr. Grey's opinion on this subject.

[English]

Monogamous marriage between man and woman can fairly be said to be the most important institution of the West. Other institutions — social, economic and political — floundered and disappeared but marriage has, so far, survived even the most drastic changes....

While it is indeed possible to defend restricting the word "marriage" to heterosexuals without bad faith or bigotry, it is also true that marriage has undergone such radical change in the last half century....

It is clear that all rights of married persons, for instance with respect to pensions, immigration sponsorship, successions, adoptions and tax benefits, must apply to homosexuals....

However, a civil union may fulfill those requirements as easily as marriage, and the decision on whether or not to use the word "marriage" depends on factors other than the Charter.

[Translation]

I want to conclude with the first sentence in his article, which states:

The decision on whether or not to use the word "marriage" depends on factors other than the charter.

I subscribe fully to this opinion.

There is respect for dignity, which is recognized in our legislation, since homosexuals want to be recognized as different. We have the Gay Games, gay pride parades, gay literature and gay families, and the common denominator of these activities is the pride felt by those who support them.

On one hand, there are very important celebrations of this difference, and on the other, there is the desire to share an institution that, since time immemorial, has been the prerogative of heterosexuals.

Like Mr. Grey, I maintain that this bill is more a political action than a legal exercise confirming the equality rights of same sex couples.

Personally, I have always called for the right to equality, not similarity. I am proud of my psychological and physiological differences and I invite my honourable colleagues to reflect on this concept of equality and difference.

The effects of Bill C-38 on the family unit are immense. I will quote some excerpts from what McGill University ethics specialist Dr. Margaret Somerville had to say when she appeared before the committee:

When restricted to one man and one woman, marriage establishes as the norm the rights of children to a biological father and mother who will raise them ...Because same-sex marriage is not based on procreation, it deprives all children of such rights, not just the children of same-sex couples. Bill C-38 expressly recognizes and applies this change by redefining the parental condition in general, changing it from the natural, or biological, parental condition to the legal parental condition.

This is the effect of Bill C-38. New reproductive techniques can also change the biological bases of the parental condition and raise the problem of children's rights with respect to the backgrounds of their biological parents.

She went on to say:

Laws establishing the right of adopted children to know the identity of their biological parents have become the norm.

We must acknowledge that this issue is undergoing rapid change. This new phenomenon had not been studied when we were amending our legislation on assisted reproduction

Dr. Somerville added:

The rights of children must include: (1) the right to be conceived with a natural biological heritage — that is to say unmodified biological origins — and to be conceived with natural sperm from an identified man and a natural ovum from an identified woman; and (2) the right to know the identity of their biological parents.

Knowing our biological parentage and our relationship to that parentage is essential to establishing our identity, and helps us in our relationships with others and in finding a meaning for our lives

Children and their descendants who do not know their genetic history cannot feel part of a network of people in the past, present and future, through whom they can trace their genealogy from past generations to themselves and then onward.

Although I am no expert on the matter, I have to say that I pay attention to these words. When we go to the doctor, he certainly asks us questions about our parents' biological and genetic

history in order to decide on treatment. This is the case, to some extent, with breast cancer: the family's biological history is vital, from the standpoint not only of treatment but of prevention as well.

I believe these matters have not been examined in depth. Even when Canadian legislation attempted to provide a framework for methods of assisted reproduction, it did not go beyond the issue of knowing one's parents' genetic history.

In this spirit, I consulted the experts who worked for more than a year on a serious study, which should convince you that it is not appropriate to yield to pressure to expedite adoption of Bill C-38.

• 2010

I commissioned a study by Nicole Tremblay, a professor at the psychology department at the Universitié du Québec à Montréal, who was assisted by Émilie D'Amico, a PhD student in that department; Émilie Jodoin, another PhD student; and Danielle Julien, a professor and scholar in the psychology department.

Their study was a review of empirical studies on cognitive and psychosocial development and on the quality of the family environment of children conceived with the help of assisted reproductive technology.

You might wonder what this has to do with the issue at hand. The researchers refer to it in their review and mention every study published in the past ten years or more. Only two studies were conducted. In those studies, two comparisons showed diminished behavioural adaptation in children from same-sex-parent families, while one comparison showed the opposite. There were two studies: one is positive and the other is negative. The researchers found it difficult to draw clear conclusions from these results.

I will read you the summary of this study that is available and was submitted to the committee, in which the authors also found that:

Other studies will be needed to identify the various individual and contextual aspects likely to play a role in the adaptation of families that used assisted reproductive technology and of their children, and to clarify the direct effects of ART.... studies of samples of Canadian children conceived through ART would also be beneficial.

In other words, we are currently working with the unknown. We are accepting a concept without really knowing exactly what effect it will have on other generations.

In science there is a principle called the precautionary principle. For the philosopher Jonas, in *La lettre EMERIT* in September 2000, this principle of responsibility is an ethical one, which brings me back to the studies that should be done.

Jonas says:

The power we wield today as a result of science and technology has led to a new and unexpected responsibility: "leaving future generations with a planet that humans can inhabit, and not altering the biological conditions of the human race".

He pleads, therefore, for a new concept of responsibility. He tells us that:

... this form of scientific knowledge is often tainted by great uncertainty.

He also says:

There is, therefore, "a moral obligation" to consider the worst-case scenario with regard to any decision that may have irreversible and unknown consequences.

I think that, as responsible individuals who want to consider all aspects of a new phenomenon, a new concept and a new scientific approach — and I am talking about children here — it is important to look further ahead and to think of children who will be born to same sex couples through assisted reproductive technologies.

Marriage, the union of one man and one woman for the purposes of procreating, was certainly not invented by Hollywood; even if the great films of yesteryear all ended with "and they lived happily ever after and had many children". This institution is not solely the confirmation of a love between two individuals, because prearranged marriage, where many couples never meet before the ceremony, exists in many cultures.

The Hon. the Speaker: Honourable senators, I regret to inform Senator Hervieux-Payette that her time has expired.

Senator Hervieux-Payette: Honourable senators, may I have two additional minutes in which to conclude my remarks.

Hon. Senators: Agreed.

Senator Hervieux-Payette: Finally, honourable senators, by adopting the term "marriage" for an institution that does not reflect the reality of the majority of Canadians, we are not ensuring the equality that Bill C-38 promises. In fact, under the BNA Act, each province recognizes the civil rights of spouses, rights that differ from one province to the next.

The Hon. the Speaker: I note a great deal of noise, and would ask that you limit your conversations or continue them outside this chamber.

Senator Hervieux-Payette: Honourable senators, I share the opinion of eminent civil jurist Julius H. Grey that civil union is the appropriate institution for recognition of a union of two persons of the same sex and that the term "marriage" is not a Charter issue per se.

I do, however, realize that the gay lobby has managed to cloud the issue to such an extent that we have been forced to go into it in greater depth and to wonder what lies behind forcing the use of a word while changing its meaning. There is no major opposition to recognizing the same rights for same-sex couples, provided that institution does not infringe on the institution of marriage, which is for the purpose of procreation. It seems to me that altering the purpose of such a fundamental institution requires us to reflect.

I have made an honest and methodical attempt to fully explore this issue, by asking recognized academic authorities on lexicology and anthropology to conduct research. In light of those studies and the presentations to the committee, I cannot agree to vote in favour of Bill C-38 as it stands. It would run counter to my profound convictions on my role as a senator, which is to protect Canadian institutions and the most vulnerable of Canadians, our children. When today's discussions have come to an end, I will decide whether to support the amendment or the subamendment we have before us

Hon. Jean Lapointe: Honourable senators, I had no intention whatsoever of taking part in this debate, for personal reasons. I am a Christian, I have a sister who is a religious, and Archbishop Turcotte is also a friend; I felt in a very precarious position.

This evening, after hearing Senator Kinsella's speech, and in particular after hearing Senator Forrestall, a man I greatly admire, I think that in my case it is a question of humanity and minority rights.

The Charter and the Constitution are all Greek to me. I am not up to studying all that. But, having heard what Senator Joyal has had to say, I have reached the conclusion that I am going to support Bill C-38, but with some slight internal reservations.

Hon. Senators: Question!

[English]

The Hon. the Speaker: Are honourable senators ready for the question on Senator Banks' subamendment?

Some Hon. Senators: Ouestion!

The Hon. the Speaker: Those honourable senators in favour of the subamendment will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the subamendment will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the nays have it.

And two honourable senators having risen:

The Hon. the Speaker: Honourable senators, is there an agreement on the bell?

Senator LeBreton: Pursuant to rule 66(1), I would ask for a one-hour bell.

The Hon. the Speaker: Call in the senators.

(2120)

Motion in subamendment negatived on the following division:

YEAS THE HONOURABLE SENATORS

Angus	Kelleher
Atkins	Keon
Banks	Kinsella
Buchanan	LeBreton
Cochrane	Meighen
Comeau Cools Corbin Di Nino Eyton Forrestall Gustafson	Oliver Phalen Plamondon Sibbeston St. Germain Stratton Tkachuk—24

NAYS THE HONOURABLE SENATORS

Austin	Kenny
Bacon	Losier-Cool
Baker	Maheu
Biron	Mahovlich
Bryden	Massicotte
Callbeck	Mercer
Chaput	Milne
Christensen	Mitchell
Cook	Munson
Cordy	Nancy Ruth
Dallaire	Pearson
Downe	Pépin
Dyck	Peterson
Eggleton	Poulin
Fairbairn	Poy
Fitzpatrick	Ringuette
Furey	Robichaud
Gill	Rompkey
Grafstein	Smith
Harb	Spivak
Hubley	Tardif
Jaffer	
Joyal	Trenholme Counsell
Joyan	Watt46

ABSTENTIONS THE HONOURABLE SENATORS

Hervieux-Payette	Prud'homme—3
Moore	

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: I take it you are ready for the question. I will put the question.

The question is on the amendment moved by Senator Kinsella, seconded by Senator Stratton. Do you wish a standing vote, honourable senators?

Some Hon. Senators: Yes.

Motion in amendment negatived on the following division:

YEAS THE HONOURABLE SENATORS

Angus	Kelleher
Atkins	Keon
Buchanan	Kinsella
Cochrane	LeBreton
Comeau	Meighen
Cools	Oliver
Corbin	Phalen
Di Nino	Plamondon
Eyton	Sibbeston
Forrestall	St. Germain
Gustafson	Stratton
Hervieux-Payette	Tkachuk—24

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Christensen	Mitchell
Cook	Munson
Cordy	Nancy Ruth
Dallaire	Pearson
Downe	Pépin
Dyck	Peterson
Eggleton	Poulin
Fairbairn	Pov
Fitzpatrick	Ringuette
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Gill	Rompkey
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• (2130)

Joyal

The Hon. the Speaker: We are now resuming debate on the motion for third reading, and several senators have expressed a desire to speak: Senator Grafstein, Senator Cools, Senator Milne and Senator Prud'homme.

Senator Grafstein: Honourable senators, the hour is late, darkness falls, the arguments are fresh and evergreen with respect to the Civil Marriage Bill. Meanwhile, public passions are receding. Public opinion is shifting as it did after the explosive debate on capital punishment. Still, this bill is intensively debated in dining rooms, family rooms and bedrooms of the nation. Debate has been provoked in our synagogues, mosques, churches and temples, and within all non-faith-based institutions. The debate goes to the heart of the nature of the fundamental building block of our society — the family. It is said that the last refuge of a scoundrel, when one runs out of rational arguments, is to expound on the mystical and undefinable bonds of family and family values, but this argument is not fair in this case. This bill is all about the pith and substance of marriage, about each of us, about family and fairness.

This bill is not about restoring individual dignity or affirmative action to some minority. This bill is not about separate or equal treatment. This bill is about equality of rights to all citizens under the rule of law. All we have, honourable senators, between us and civic chaos is the rule of law.

May I, with the indulgence of senators, go quickly through the arguments I mobilized against the Civil Marriage Bill in my own internal debate with myself and my own conclusions from my own rebuttal to many of the arguments against equality of rights to same-sex marriage and the treatment of minority rights implicit in this legislation.

First and foremost is the premise of family based on procreation as a condition subsequent to marriage. Yet we all know many heterosexual marriages are not based on procreation but on love, respect and mutual interest. Our colleague, Senator Fairbairn, is a perfect example of that. There are childless families and childless marriages, and these are not scorned, discriminated against, or treated differently under our laws. Indeed, Statistics Canada, back in 2001, reported that, out of 8.3 million families in Canada, 2.4 million, or about 20 per cent, were childless.

Second, it is argued that same-sex marriage is not a social good. Yet there is no scientific evidence to suggest that same-sex marriage is any less good than heterosexual marriage nor that children brought up in same-sex marriage would be detrimentally affected if each family unit is treated with equality and respect. The Canadian Psychological Association concluded that all available scientific evidence indicates that children of gay or lesbian parents, of single-sex families, do not differ significantly from children with heterosexual parents with regard to psychological and gender development and identity. The association concluded that all children deserve to feel that society accepts and recognizes their families, and children of same-sex couples are no exception to this principle.

The third argument is that equality rights as proposed in the Civil Marriage Bill would detrimentally prejudice freedom of religion, including the right to teach the doctrinal benefits of heterosexual marriage. There are several complex issues interwoven in this argument that we must address. Protection of religious freedom framed by the Supreme Court would include the right to continue to teach that heterosexual marriage is a social

good. The Supreme Court went on to state that religious officials cannot be compelled to perform same-sex marriages. It is equally clear that no religious institutions, synagogues, churches, mosques or temples could be forced to perform same-sex marriages contrary to their bona fide religious beliefs. No faith-based charity would be deprived of charitable status under the umbrella of Charter protections.

There is a triple clarity of protection for religious freedom consonant with equality — first and foremost, the Charter; secondly, the Supreme Court decision; and finally, the legislation itself, which encapsulates these principles in preamble paragraphs 1 and 6. Let me quote paragraph six again:

WHEREAS everyone has the freedom of conscience and religion under section 2 of the *Canadian Charter of Rights and Freedoms*;

Clause 3 of the bill itself states:

It is recognized that officials of religious groups are free to refuse to perform marriages that are not in accordance with their religious beliefs.

This is a statement directly from the Charter into the legislation. It therefore cannot be suggested that it would be held ultra vires if Parliament re-enacted those same words in its statute.

The argument that is sometimes made that equality rights under section 15 of the Charter trump freedom of conscience and religious rights under section 2 is simply not correct. Rather, there is a carefully framed, mutual protection and respect for these rights — equality rights and religious rights — based on equal premises in the Charter, in precedent and in law, and under the Constitution as well.

What of the argument about the limitation based on conjugal relationships in heterosexual marriages? What did the Supreme Court say in the $M \nu$. H case in 1999? Let me quote briefly from that decision, dealing with the definition of conjugal relations:

Courts have wisely determined that the approach to determining whether a relationship is conjugal must be flexible. This must be so, for the relationships of all couples will vary widely. In these circumstances, the Court of Appeal correctly concluded that there is nothing to suggest that same-sex couples do not meet the legal definition of "conjugal".

That decision goes on later to say that thus "the distinction of relevance...must be between persons in an opposite-sex, conjugal relationship of some permanence and persons in a same-sex, conjugal individual relationship of some permanence." That is the Supreme Court of Canada on the definition of conjugal relationships.

The next argument is the metaphysical one that same-sex marriage is against natural law. Natural law, like the common law, evolves. Natural law is not static. At one time, polygamy was acceptable under natural law. I extrapolate from Senator Joyal that natural law is sometimes in the eye of the beholder. That

evolution that forms the "crooked timber of humanity," the evolution of "natural law," we conclude, is rather, as some exponents have suggested, like that appropriated to the Charter, as a growing tree doctrine. I would argue with some that the growing tree doctrine cannot be used to trump the fundamental principle of supremacy of Parliament to legislate and the Supreme Court's right to interpret. Still, natural law has indeed evolved. Yet, some beholders define their natural law in an "antique" natural law form, even though the antique natural law I refer to still vibrates in many parts of the world. Polygamy is permitted in many parts of the world. Under the antique natural law, women are not entitled to equal treatment before the law but to different treatment. In Canada, we would now all agree that natural law includes recognition of gender equality and gender differences, but these differences should not trump equality of treatment by reason of gender alone.

As a personal aside, in the 12th century in Cordova, Spain, which I visited last month, Maimonides, one of Judaism's greatest Talmudic scholars, concluded that polygamy be expunged from those of the Jewish faith. That was in the 12th century. The natural law was changed. Scorned in his time, Maimonides remains a revered source of Talmudic thought to this day. Reason and revelation, he discovered, could be reconciled.

The next argument is a complex contest about whether the rule of law as exemplified by an act of Parliament, invades the sphere of religious laws and perverts the rules of religious doctrine. Yet again, the Charter and the Supreme Court make it eminently clear that the rights of the church, the synagogue, the mosque or the temple to expand and expound the peaceful practices of their religious doctrines are entrenched and protected by the law. The state, honourable senators, has no place in the exercise of the doctrines of our respective faiths. Read the 2004 Supreme Court decision where the Supreme Court restrained itself from becoming an arbiter of religious doctrine. I will quote from that decision as well.

(2140)

The purpose of s. 2(a) is to ensure that society does not interfere with profoundly personal beliefs that govern one's perception of oneself, humankind, nature, and, in some cases, a higher or different order of being. These beliefs, in turn, govern one's conduct and practices.

In my view, the State is in no position to be, nor should it become, the arbiter of religious dogma. Accordingly, courts should avoid judicially interpreting and thus determining, either explicitly or implicitly, the content of a subjective understanding of religious requirement, "obligation", precept, "commandment", custom or ritual. Secular judicial determinations of theological or religious disputes, or of contentious matters of religious doctrine, unjustifiably entangled the court in affairs of religion.

That was a remarkable case of appropriate self-restraint by the Supreme Court of Canada.

What of today's newspaper's story about one province dismissing a marriage commissioner for refusing to perform same-sex marriage? This problem is on the way to resolution. Here, the marriage commissioner, in a non-religious, stateappointed office, refuses to contravene his religious beliefs in the exercise of his state duties. I am confident that provincial legislation and the courts will provide protection against officials who refuse based on their exercise of conscious religious belief in full faith and bona fides. This can be accommodated as long as same-sex marriage proponents are not deprived of access to the marriage commissioner in any province. On March 15, the Ontario legislature expressly adopted such legislation under Bill 171. I have no doubt, according to section 92(8), that the provinces have the right, as senators have suggested, to solemnize marriage by civil servants or appointees who will be protected if they refuse bona fide, based on their conscious belief, to celebrate same-sex marriage, provided such provinces provide alternative, appropriate and equal means of access to same-sex marriage rights by other such civil servants.

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Allow me to address an argument based on equality and mobility rights not discussed here today. As the Canadian Bar Association so thoughtfully pointed out, failure to provide a law for general application of same-sex marriages within Canada collides to prevent couples lawfully wed in a permissive province wishing to relocate to a province where their marriage is not equally recognized. This is contrary to mobility rights and is intensified by the uncertainty over equal rights and obligations as spouses in the event their marriage suffers a breakdown or one dies when resident in one such province. Such couples may be compelled to refuse job opportunities to avoid endangering the benefits they receive by virtue of a civil marriage. This situation runs counter to the letter and spirit of the Charter. The thesis of Canadian citizenship is based on equal protection under the law.

The most intriguing argument of is centred around the "slippery slope" into the future. The argument made is that such a civil marriage act would lead to untold injury and destruction to the family unit and worse — to such actions as polygamy. Of course, those who made that argument could not have read the proposed legislation because it specifically restricts the definition of civil marriage to two persons to the exclusion of all others. In addition, the practice of polygamy, bigamy and incest, once acceptable under natural law in some circumstances and civilizations, but not in ours, will continue to be criminal offences and not deemed to be in contravention of the Charter.

I have another thought about the separation of church and state. We have noticed our southern neighbour espousing their early doctrine of separation of church and state, while religious doctrine becomes more deeply enmeshed in their current civic dialectic. Thus, it is most refreshing to remind ourselves that the Supreme Court of Canada in the 1955 case of *Chaput v. Romain*, which Senator Joyal brought to our attention, brings a compelling but different dialectic to the exercise of religious freedom and the role of the state in Canada. Allow me to quote Mr. Justice Taschereau:

In our country, there is no state religion. All religions are on equal footing, and Catholics as well as Protestants, Jews, and other adherents to various religious denominations, enjoy the most complete liberty of thought. The conscience of each is a personal matter and of concern to nobody else. It would be distressing to think that a majority might impose its religious views upon a minority, and it would also

be a shocking error to believe that one serves his country or his religion by denying in one Province, to a minority, the same rights which one rightly claims for oneself in another Province.

That is a 1955 ruling of the Supreme Court of Canada before the adoption of the Charter.

Hence, if there is no state religion in Canada, is the question one of the maintenance of religious doctrine by the state or that the religious doctrine interferes with or impinges on the role of the state by suppressing equality of treatment to all citizens?

Finally, what of the impact of this legislation on Canada's role in the world? What does it say about Canada in the 21st century? What does it say to our neighbours around the globe?

Honourable senators will know that in my capacity as a senior officer of the OSCE, the largest international organization in the world dedicated to democratic rights, human rights, security and cooperation, I have examined firsthand, as have other senators in this chamber, the various stages of democratic and human rights evolving in many of the 55 member states of the OSCE. I have travelled and actively participated with parliamentarians in numerous meetings across the face of Europe and Asia where human and minority groups in many member states struggle daily to climb up their individual slippery slopes to the fertile fields of equality, with which we are blessed, whether in respect of race, religion or gender. All gaze a watchful eye for sustenance for emerging rights from Canada as an exemplar for leadership and as a template of equality in the 21st century.

Honourable senators, I have convinced myself and, I hope, some members of my reluctant family, members of my faith and many of my reluctant friends, as to why I endorse this legislation.

The Hon. the Speaker: I am sorry, but your time has expired, Senator Grafstein.

Senator Grafstein: I ask for leave to continue.

Hon. Senators: Agreed.

Senator Grafstein: I will provide an observation about the Honourable Senator Joyal, who has dedicated the last 20 years to leadership. We saw it all emerge in masterfully eloquent speeches at second and third reading today and in his cogent examination and fairness in the Standing Senate Committee on Legal and Constitutional Affairs. I have read much of that transcript, which all will find quite amazing. We have been privileged to witness one of the finest examples of "honourable senator." Those two words have been given fresh life because of this debate. I believe that this debate and the work of the committee on Legal and Constitutional Affairs, and all honourable senators, will serve as an example of one of the Senate's finest hours. We are in debt to Senator Joyal. All progress is by a winding staircase; let us find the next step together.

Hon. Consiglio Di Nino: May I ask the honourable senator a question?

The Hon. the Speaker: Senator Grafstein was given time to complete his remarks. He would have to ask for additional time, and I do not think there is agreement.

Hon. Anne C. Cools: Honourable senators, I rise to speak at third reading debate of Bill C-38. It is not necessary for me to repeat yet again my strong opposition to this bill, which is based on my reading of the law of marriage for the last 250 years in Canada and my understanding of the Charter of Rights. I sincerely believe that in coming to its position on same-sex marriage, the government has engaged in an act of constitutional demolition and vandalism. It is not possible, after any serious reading on the last 250 years of the institution of marriage, for any legal mind to conclude that marriage could ever include homosexuals. I dismiss those arguments as well as the ones brought forward by Senator Grafstein and others that because some married people do not have children, somehow or other that invalidates the rest of the marriage law. That is the most illegal argument I have ever heard in my life, as if one can dismiss 800 years of the law of marriage simply by deeming it not legal because some people did not have babies. What rubbish. Adults should know better than that, especially those who claim to be lawyers. It is absolute rubbish. I have never heard such babble in my life. All this talk about what he feels and what she feels. No one here feels any differently than anyone else about their own friends and family. Everyone here cares equally about their children and their homosexual friends.

• (2150)

I will remind Senator Smith that I took a lot of heat in 1979 and 1980 when I ran in Rosedale because I was too supportive of homosexual rights and homosexual people then. A lot of this does not cut any ice. I do not think that anyone over there on the other side is any more just, fair, nicer or more loving than anyone on this side. Let us put such thoughts away.

Church and state — honourable senators, this again is nonsense. We have had separation of church and state in Canada for a long time. In fact, there was never really an established church; there were plans for an established church, but it never happened. No, Senator Grafstein, the current Liberals here do not want to separate church from state; they want to separate Canadians from their religions. There is quite a difference.

On the next point, earler today, I was speaking about the interests of Her Majesty Queen Elizabeth II in this bill. If it were a different bill, perhaps, I would have expected Senator Joyal to be on his feet asking the Speaker to ensure that there was a royal consent attached to this bill. This bill touches the prerogatives of Her Majesty because a marriage in this country is performed and solemnized under the law of the prerogative, the *lex prerogativa*.

I will say it again: All marriages are both civil and religious at the same time. The civil construct expressed in Bill C-38 is a fraud because the interesting thing about the Constitution of Canada is that the Governor-in-Chief — the initial one and also the Governor General at the time of 1867 — was in one of the two authorities, civil and ecclesiastical. Let us not kid ourselves about that.

I just do not understand why the government could not proceed in accordance with the laws of this country on this bill. If we pride ourselves and say that this system is a jewel of British constitutionalism and a jewel of international constitutionalism, why do we not act accordingly? If you had, I would have supported you. However, I will not support you because I do something that many people do not do anymore — I read.

Honourable senators, I would like to speak now about my strong objections to the introduction and the prosecution of this bill. Her Majesty's interests have been ignored; the law of the prerogative has been ignored; and I would like to speak now about Parliament's interests in this bill. I speak as a member of Parliament, and it is a great privilege to be here.

Honourable senators, I was very distressed at the outset that the government of this land — the Attorney General under a peculiar set of powers section in the Supreme Court Act — sent a draft bill to the Supreme Court. There is no such constitutional animal as a draft bill. The use of the words "draft bill" is an attempt to mislead and to deceive.

Honourable senators, a bill, if I can quote Abraham and Hawtrey, A Parliamentary Dictionary:

> A bill is a draft act of Parliament presented to one or other House of Parliament by a member...

which no judge is. I would also like to support that with a quote from An Encyclopaedia of Parliament, Wilding and Laundy:

A bill is a statute in draft...

There is no such thing as a bill beginning in the Supreme Court of Canada that has not first seen the light of day in one of these two Houses. Let us understand that. A bill is a draft act, so there is no such thing as a draft of a draft act.

Even the creation of those words was an attempt to cause people to think that something was what it was not. In actual fact, what a bill is really is a petition to Her Majesty to make an enactment in accordance with the terms described in the bill. That is what a bill says to Her Majesty, "Please enact this as it is written here." That is how bills began their parliamentary history, as petitions, where the king would write his response upon it. Eventually the bill more and more took the form of the final act, the statute.

In the entire debate, I have not heard a single parliamentary authority cited. We are a house of Parliament, but we never cite parliamentary authorities. We cite the Supreme Court, and we cite this judge on rights and we cite everyone else, but we cannot come up with any parliamentary authorities or any great members of Parliament in the history of Canada or the Parliament of the U.K. to cite in support of any of these arguments. Something is very

I notice, too, in the Speaker's rulings, you cannot hear from a single parliamentary authority. Erskine May and Beauchesne are not parliamentary authorities; they are reference books. Parliamentary authorities are the distinctive authorities, members of Parliament speaking and the precedents set on the floors of the chambers.

In my distress in respect of the government sending this reference to the court, I felt very strongly, and I have articulated repeatedly, that there was no place in a parliamentary proceeding for the court. Under section 18 of the Constitution Act 1867, we are accorded rights, powers and responsibilities as members of the Senate and the House of Commons. Those rights, powers and responsibilities include the right to the production, the introduction, deliberation and debate of motions and bills. This is important to the proper function of Parliament, including the actions of Her Majesty the Queen because, as I said before, bills are petitions from one House of Parliament to Her Majesty, seeking the enactment of a statute in the words of the bill.

I believe that under section 18, honourable senators, the introduction, debate and approval of bills is arguably the most primary of parliamentary proceedings, and that there is absolutely no role under the BNA Act for the Supreme Court of Canada to take part in a parliamentary proceeding, which it has done by receiving and answering questions on a draft bill this unknown creature.

Perhaps some honourable senators have not thought about this, and maybe some have thought about it and do not care, but I would like you to know that I have thought about it and I not only care but I say that it is very wrong. The entire prosecution of Bill C-38 has been of a manner and a style that undermines the role of Parliament.

Honourable senators, the Senate is undermined when all the newspapers and the journalists over the past several days have been saying that Parliament is adjourned, but the Senate is still sitting. Our position is especially weakened because of all this.

Honourable senators, obviously you know I think very seriously — particularly after the articulations of former Liberal prime minister Pierre Elliott Trudeau on the role of the Supreme Court in the reference in 1980 — that this reference should never have been put to the court.

(2200)

In honour of parliamentary authorities, I thought we should find some parliamentary authorities who speak to the question of the proper relationship between the courts and Parliament. I would like to remind honourable senators that if we were to look to the BNA Act 1867, we would discover that there is no judicial power. The Canadian Constitution is not like the American Constitution. There is no judicial power, because our system is not one of a separation of power. The powers are fused in responsible ministers. Part VII of the BNA Act is called "Judicature," so there is no judicial power so to speak.

In respect of articulating what should be the proper relationship between the courts and the Houses of Parliament, positions that were strongly taken in Canada, particularly during the development of responsible government, and especially in Ontario. I want to quote some of the greatest authorities of all time, who were parliamentarians and were extremely articulate.

I would like to begin with Sir Robert Peel, who had been the Prime Minister of Britain. In the House of Commons on March 15, 1843, on the proper relationship between the courts and Parliament, he said:

...the constitution places us as a controlling power over the courts of law. The functions which, in this respect, we may have to discharge, and have a right to discharge, must naturally attract the jealousy of the courts of law.

There is no dialogue between the courts and Parliament, honourable senators, as the government claims. This is all nonsense. The law of Parliament, the *lex parliamentary*, has always been that Parliament's powers are held jealously. We respect them; they respect us; and we stay off each other's ground. This dialogue is a novel thing. The Charter of Rights and Freedoms did not change the role of the Parliament of Canada in the affairs of this country.

I would like to move quickly to another eloquent and articulate great thinker and member of Parliament, Edmund Burke. I will read from a book called *The Government of England* by William Hearn as follows:

"I have always understood," said Mr. Burke in the House of Commons, "that a superintendence over the doctrines as well as the proceedings of the courts of justice, was a principal object of the Constitution of this House; that you were to watch at once over the lawyer and the law...we have no foregone opinions, which from obstinacy and false point of honour we think ourselves at all events obliged to support—so that with our own minds perfectly disengaged from the exercise, we may superintend the execution of the national justice....

I do not think the Parliament of Canada has been exercising a superintendence over the execution of national justice when we have a preamble to Bill C-38 that basically subjugates Parliament to the court. We keep hearing that the courts say this; the courts say that; the courts say we must do this; and the courts say we must do that. I strongly objected to Bill C-20, the Clarity Act. I strongly objected to the title of that act, which was "an act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference."

The Hon. the Speaker: Senator Cools, I am sorry to interrupt, but I must advise you that your time has expired. Are you requesting leave to continue?

Senator Cools: If I could have a few more minutes to put these quotes on the record.

Senator Stratton: We will agree to an extension of five minutes.

Senator Cools: Thank you, honourable senators.

I would like to read you a quotation from the biography of Edmund Burke by the Reverend Robert H. Murray. In speaking about the importance and the vitality of the House of Commons Edmund Burke said:

The virtue, spirit, and essence of the House of Commons consists in its being the express image of the feelings of the nation. It was not instituted to be a control *upon* the people, as of late has been taught, by a doctrine of the most pernicious tendency. It was designed as a control *for* the people.

He continues:

A vigilant and jealous eye over executory and judicial magistracy; an anxious care of public money; an openness, approaching facility, to public complaints, these seem to be the true characteristics of a House of Commons.

Honourable senators, I really believe in this system. That is perhaps due to my British colonial upbringing. I listened to all the speakers a few hours ago who asked how it feels to be gay. How does it feel to be anything and everything? Everyone has sorrow. Honourable senators, I am the first Black female senator in North America. None here have ever asked me how I felt to be the only Black person here for so long. However, that is not important to me because it is such a great privilege to serve in this place. To my mind, all other questions are lesser and subordinate.

Honourable senators, I have gone through my entire life being the only Black person here and there and there. So there it is: Human beings suffer; homosexual people suffer; left-handed people suffer; bright people suffer; pretty girls suffer; ugly girls suffer; short men suffer; tall men suffer. We must understand that there are areas in life where forgiveness must operate. At the same time, there are places in life where we must understand that there is a paucity of the human condition.

Honourable senators, I would like to close by referring to another great parliamentarian, Upper Canadian William Lyon Mackenzie. In an address to Her Majesty, as recorded in Margaret Fairley's book, *The Selected Writings of William Mackenzie 1824-1837* he stated:

...for there is not now, neither has there ever been in this province, any real constitutional check upon the natural disposition of men in the possession of power, to promote their own partial views and interests at the expense of the interests of the great body of the people.

William Lyon Mackenzie was the mayor of Toronto and also a member of the assembly.

Senator Smith: A ramble against Her Majesty.

Senator Cools: That may be true, but we are dealing with what he said about the Family Compact and the role of the judges.

In closing, I wish to quote one judge who upholds

Some Hon. Senators: Oh, oh!

Senator Cools: Many judges, honourable senators, have upheld -

An Hon. Senator: Only those that agree with you.

Senator Cools: No, I do not need anyone to agree with me.

The Hon. the Speaker: Order, please. Senator Cools has only a few seconds left.

Senator Cools: Many judges articulate again and again the nature of the proper relationship between the courts and Parliament, and I quote them from time to time. I quote anyone who upholds the rights of Parliament and the proper constitutional relationship, constitutional comity, constitutional balance, and the design of the Constitution.

• (2210)

Lord Justice Fletcher Moulton in the Court of Appeal's *Scott v. Scott* judgment of 1912 said:

We claim and obtain obedience and respect for our office because we are nothing other than the appointed agents for enforcing upon each individual the performance of his obligations. That obedience and that respect must cease if, disregarding the difference between legislative and judicial functions, we attempt ourselves to create obligations and impose them on individuals who refuse to accept them and who have done nothing to render those obligations binding upon them against their will.

He continued:

The courts are the guardians of the liberties of the public and should be the bulwark against all encroachments on those liberties from whatsoever side they may come. It is their duty therefore to be vigilant. But they must be doubly vigilant against encroachment by the courts themselves. In that case it is their own actions which they must bring into judgment and it is against themselves that they must protest the public.

The Hon. the Speaker: I am sorry to interrupt, but I must advise that your time has expired, Senator Cools.

Hon. Lorna Milne: Honourable senators, I am proud to stand here this evening to speak in favour of Bill C- 38 at third reading. Throughout my career at the Senate I have wholeheartedly supported minority rights. Indeed, that is not only part of the mandate of the Senate, it is deeply engrained in the culture here and it is a key part of what makes this chamber so special and so important in Canadian society.

Honourable senators, it was truly an eye-opener to sit in the hearings conducted by the Standing Senate Committee on Legal and Constitutional Affairs last week. I also want to note that Senator Bacon did an outstanding job in balancing the diverse interests on this issue. She held well-balanced hearings that exemplify the kind of work we do here in the Senate. She should be commended.

Some Hon. Senators: Hear, hear!

Senator Milne: Honourable senators, the week of hearings did not change my mind on this issue, and I did not expect it to. What truly surprised me was how much stronger my support for this bill is after the hearings than when they started. The positions taken by the various witnesses last week were stark and diametrically opposed to one another; there is no doubt about that.

There are 10 reasons in particular why my position strengthened as a result of the hearings. The first reason was provided by Cardinal Ouellet, the Roman Catholic Primate of Canada, who spoke about how the Catholic Church will handle baptisms after this bill is passed. He said that the church —

[Translation]

We cannot accept the signatures of two fathers or two mothers as a child's parents.

[English]

He certainly left us all with the strong impression that he would refuse to baptize the child of a gay married couple.

Honourable senators, I had always thought that all Christians were taught to accept children no matter what the circumstances. I most humbly suggest that Cardinal Ouellet take another look at Luke, chapter 18, verse 16, which says:

But Jesus called them unto him, and said, Suffer little children to come unto me, and forbid them not: for of such is the Kingdom of God.

Some Hon. Senators: Hear, hear!

Senator Milne: Second, I found support for my position in the argument of former Deputy Minister of Finance and former Chief of Staff to Prime Minister Mulroney, Stanley Hartt, who believes that this whole debate is:

... being done for political purposes so that people can feel better about the outcome.

— as if there were no rights issues involved here at all.

The third and fourth comments that bolstered my belief in my position came from Phillip Horgan, President of the Catholic Civil Rights League. While being questioned by Senator Rivest, he stated that any Catholic who questioned the church's beliefs on same-sex marriage was not "an authentic Catholic." He apparently believes that Catholic Canadians should not have the ability to speak for themselves.

Even more outrageous was the notion that the government should be in the business of picking winners and losers in debates over religious issues. When I asked him:

I believe we established earlier that it is not up to the government to choose between religious groups, because that is what the Charter protects, is it not?

Mr. Horgan quickly retorted:

I did not concede that, senator.

I am compelled to ask, honourable senators, if the government gets into the business of picking religious winners and losers, then what will become of the concept of freedom of religion?

Former Newfoundland marriage commissioner Ms. Diz Dichmont provided further reason to support minority rights in this debate. She noted:

It makes my blood run cold and it seems that we are now beginning to regress rather than progress in many ways in this country as we change our mores and even legislation to accede to minority pressures... Are we seeking to be avantgarde, or are we, in fact, being retro-garde (sic)?

By passing this bill, we are being avant-garde. Any time we act as leaders in this place and lead Canadians to a society that is more inclusive, we are being avant-garde. Honourable senators, that warms my heart and does not make my blood run cold.

Ms. Ditchmont made another statement that I found baffling. She asserted:

Gay activism historically started in Germany during Hitler's regime and under the umbrella of the disco scene. It has grown in intensity and even in violence throughout the years...

The ghastly issues that that quote raises are almost too many to count. I can guarantee you that anyone who believes that the gay movement that also supports this legislation is violent has never been to the Gay Pride parade in downtown Toronto. You may argue that the participants are too happy, too over the top, perhaps, too colourful; but violent? I do not think so.

Let the record be perfectly clear that the real violence against homosexuals in the 1930s and 1940s came when Hitler attempted to exterminate all homosexuals during his attempted genocide of the Jews, Gypsies and other groups. Make no mistake about it, homosexuals, by and large, are not perpetrators of violence; they have been its victims for centuries.

The seventh reason why my support for this bill was bolstered during committee came as a result of the claims of Ms. Gwendolyn Landolt, President of REAL Women Canada. In her testimony, she claimed that, first, there are increased mental health problems within the homosexual community; second, that homosexuals experience a significantly reduced life expectancy because of their lifestyle; third, that same-sex parenting influences children's sexual orientation; fourth, that sexual orientation is nothing more than a human behaviour characteristic; fifth, that Bill C-38 will cause the birth rate to drop in Canada; and, sixth, that less than 2 per cent of homosexuals are monogamous.

Honourable senators, if you replace the words "homosexual" or "sexual orientation" with the word "female" in any of these contexts, you would certainly argue that the person saying the word is a misogynist. I will let others draw the conclusions as to what I would label Ms. Landolt.

The eighth, ninth and tenth reasons are due to the bombastic and verbose — I will not say "narcissistic" — testimony by a professor from Augustine College, Dr. John Patrick. He said that by passing this legislation, we are:

...allowing ways of living which do gratuitous harm to others.

He later attempted to enumerate a list of physical problems associated with being homosexual.

• (2220)

Honourable senators, every major Canadian, European and American journal of medicine and psychiatry stopped believing that homosexual activity was an illness or would lead to great disease a long time ago.

Dr. Patrick remarked that the Canadian education system is deficient and that we poor senators would be unable to understand some of his statements. He also stated that Canada is currently being governed by barbarians, and he looked forward to some kind of enlightened revolution, the likes of which were started at the end of the Dark Ages.

Honourable senators, if this is a barbaric government, if the Liberal Party that built the social safety net, that balanced the budget and has produced leaders such as Laurier, Pearson, Trudeau and Chrétien, is barbarian, I have just one thing to say: Bring on the hordes!

The tenth and most important reason why I support this legislation, honourable senators, is also found in the words of Dr. Patrick. He argued that those who support Bill C-38:

...base their assertion of a right of homosexuals to change the meaning of the word 'marriage' on no visible intellectual foundations. They just invoked the Charter. The Charter is merely a piece of paper. Where is the argument?

A piece of paper. A mere piece of paper, honourable senators.

An Hon. Senator: Shame on him!

Senator Milne: I rise here in this chamber to defend what I believe to be one of the most important pieces of paper to have existed in Canadian history. It is the Charter that protects us, one and all, and gives us all the fundamental freedoms to live, play and worship in a free and democratic society. That is the same Charter that now protects the rights of all of our witnesses, even those with whom I disagreed, to stand up and argue their position out on the streets as well as here in the Senate. It is a Charter infused with values that Canadian and, indeed, western societies have been developing for hundreds of years.

Dr. Patrick asked: Where is the argument? I will tell him. He can find it in Locke, Hobbes, Rousseau and Voltaire. He can find it in the work of Trudeau and Chrétien, as they cobbled together that piece of paper; and, yes, he can find it among the senators here today who worked on the Charter on the special joint committee, such as Senator Joyal and Senator Austin.

Honourable senators, I am proud to state that I will stand in my place and support Bill C-38. It is a matter of human rights and dignity. Our Charter calls on us all to treat everyone equally, and that is exactly what I intend do.

Some Hon. Senators: Hear, hear!

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, whenever I look at a bill, I ask myself whether or not we need it, as I said before. This is the question that I have asked myself about Bill C-38.

[Translation]

In order to respond, I had to examine the bill and the surrounding facts carefully.

[English]

As we are aware, the current legal situation is that the courts in eight provinces and two territories have determined that the opposite-sex requirement for marriage is an unconstitutional breach of the equality rights section of the Charter. These court decisions cover about 90 per cent of the population in Canada, which means that same-sex marriage is already legal for 90 per cent of Canadians.

Even without Bill C-38, the situation would stay the same in those jurisdictions where the courts have made their decisions, and it seems that the remaining provinces and territories will likely soon follow suit. This is because the Supreme Court of Canada has never had the opportunity to hear an appeal in any of these cases. The federal government decided that same-sex marriage was the way we would go in Canada, and has refused to appeal the provincial court decisions.

When the Supreme Court was given an opportunity to comment on the constitutionality of same-sex marriage, it declined. It chose to defer to Parliament on this issue, recognizing the clear policy choice of the Liberal government. It held back what would likely have been its decision, that the opposite-sex definition of marriage was, in fact, constitutional. We have Stanley Hartt's clear argument on this.

Consequently, as Justice Minister Irwin Cotler told the Standing Senate Committee on Legal and Constitutional Affairs, even if we were to drop Bill C-38,

Same-sex marriage would still be the law of the land, at least in those eight provinces and one territory, and we have heard that this will soon be extended, let us say, to the rest.

The implication is that very soon there will be no legal barriers preventing people of the same sex from marrying in Canada. This bill is not necessary in order to have same-sex marriage in Canada, because it already exists.

However, there is one other question I must ask myself about this bill, which relates to its second purpose: the protection of religious freedoms in Canada. The minister highlighted this purpose when he told the committee:

...this legislation will provide, for greater certainty, an additional expression of protection that is already in the Charter of Rights and Freedoms regarding section 2 (a), protection for freedom of religion and conscience.

Unfortunately, there is a problem here. The clause of the bill that relates to protecting religious freedom actually falls outside of federal jurisdiction. The Supreme Court of Canada made this clear in its *Reference on same-sex marriage*, in which it stated:

...only the provinces may legislate exemptions to existing solemnization requirements, as any such exemption relates to the "solemnization of marriage" under s. 92(12). Section 2 of the Proposed Act...

which, honourable senators, is equivalent to clause 3 of Bill C-38 -

...is therefore ultra vires Parliament.

This provision has no legal authority in Parliament because the solemnization of marriage falls under provincial jurisdiction. The Supreme Court noted that while the Charter protects religious officials, the provinces must get their laws in line to underscore this protection. As the court said in its reference:

It would be for the Provinces, in the exercise of their power over the solemnization of marriage, to legislate in a way that protects the rights of religious officials while providing for solemnization of same-sex marriages. It should also be noted that human rights codes must be interpreted and applied in a manner that respects the broad protection granted to religious freedom under the Charter.

Bill C-38 is not needed to ensure that same-sex marriage exists in Canada, as I said, because it already exists. Nor is it needed to provide religious protection, because that supposedly comes from the Charter and the provinces.

Unfortunately, we run into another problem here. Religious freedom is not being protected by the Charter or the provinces. According to *The Globe and Mail*, July 19, 2005, as has been stated before by others, Saskatchewan marriage commissioner Orville Nichols expects to become the first person in Canada to be fired for refusing to perform marriage for a gay couple.

The Globe and Mail states that:

...performing same-sex marriages does not accord with his religious and personal beliefs. Saskatchewan Justice Minister Frank Quennell made it clear late last year that refusal is not an option for civic officials in his province.

Mr. Nichols' religious freedom has not been protected. He is not the first marriage commissioner to have faced problems in the provinces. Some have already resigned over this matter in Manitoba and Newfoundland, and now likely as well in Saskatchewan.

In another case, the Knights of Columbus, a Catholic men's organization, as has been mentioned before, cancelled a contract with a lesbian couple upon discovering that the couple were intending to celebrate their same-sex marriage at the hall. The couple took the Knights of Columbus to the B.C. Human Rights Commission and the case is yet to be resolved. Complaints have also been made to the Alberta Human Rights Commission regarding statements by Catholic Bishop Fred Henry against same-sex marriage.

Justice Minister Irwin Cotler acknowledged that the provinces are in charge when it comes to protecting religious freedom in the case of marriage, not the federal government.

• (2230)

As the minister told the committee:

We cannot legislate, we as a federal government, in matters that are within provincial jurisdiction that relate to the solemnization of marriage, but legislation within provincial jurisdiction is subject to the Canadian Charter of Rights and Freedoms, which is applicable to both federal, provincial and territorial legislators.

It seems that all we can do is ask and hope that the provinces do the right thing. That is precisely what the federal Minister of Justice has done. *The Globe and Mail* says that he has:

...appealed to his counterparts in the provinces and territories to make provisions for civic officials who don't want to perform a same-sex marriage.

Sad to say, his appeal, such as it is, has had only limited success. One thing is clear: Bill C-38 does nothing to protect religious freedom in Canada.

[Translation]

We do not need Bill C-38. I would go so far as to say that this legislation has had a disastrous impact.

[English]

The debate surrounding Bill C-38 has been extremely divisive. It is not at all clear that Canadians want to change the definition of marriage. They have been quick to voice opinions on this matter to my office. My office has been swamped with phone calls, faxes, emails and letters from people urging me to take a stand against the bill.

The committee meetings in the other place were extremely acrimonious and they occasionally degenerated into name calling there as well. In the face of clear opposition and calls to slow down, the government has stubbornly pushed Bill C-38 through the legislative process. Closure has been invoked four times on this bill—at the report stage and third reading in the other place, and at second reading here, and now again at third reading the government has expressed its intention to do so again. This behaviour undermines the democratic process and the legitimacy of Parliament.

I submit that Canadians and Parliament have been forced into this nasty debate for no good reason. Alternatives such as civil unions were rejected out of hand, a dismissal that was even written into the bill. As the preamble of the bill states:

WHEREAS only equal access to marriage for civil purposes would respect the right of couples of the same sex to equality without discrimination, and civil union, as an institution other than marriage, would not offer them that equal access and would violate their human dignity, in breach of the *Canadian Charter of Rights and Freedoms*;

The fact is that the reference to the Supreme Court did not even discuss the question of instituting civil unions as a separate but equal approach. In fact, there is every likelihood that the court would find it constitutional. Stanley Hartt pointed this out in his now-famous *Macleans'* article entitled "Grits and Red Herrings":

If Canada were to adopt a regime of civil unions for gays and lesbians, it is virtually certain that this would be found to be constitutional, and that it would be so without the need for governments to invoke the notwithstanding clause in the Charter of Rights and Freedoms.

The truth is that the same-sex marriage is recognized in only three other nations in the world — Belgium, the Netherlands and Spain. Of these three countries that recognize same-sex marriage, two of them, Belgium and the Netherlands, have restrictions over adoption. In contrast, same-sex civil unions, domestic partnerships and civil partnerships are much more common worldwide.

In an interesting twist, I want to point out that euthanasia is legal in both Belgium and the Netherlands, two of the three countries that recognize same-sex marriage.

Senator St. Germain: That is the next step. It is a slippery slope.

Senator Stratton: The question automatically comes to mind, is this the next step? It is a logical question.

Please let me continue by listing some examples of alternatives to changing the definition of marriage chosen in other countries, as I said earlier. Denmark has registered partnerships that are for same-sex couples only. It does not permit adoption unless the child belongs to one of the spouses. Germany has a Life Partnerships Act that provides some but not all of the rights and responsibilities of marriage. France has a Civil Solidarity Pact Act that also provides some but not all of the rights and responsibilities of marriage. New Zealand has found that the opposite-sex definition of marriage is constitutional. It offers civil unions with some but not all of the rights and responsibilities of marriage. The state of California has a system of domestic partnerships that offers some state-level benefits but no federallevel benefits. The federal government of Australia has banned same-sex marriage altogether, while allowing for civil unions at the state and territorial level. Currently, civil unions are available in all but two provinces.

Honourable senators, our Liberal government is ignoring the experiences of countries like these. With a legislative and somewhat paternalistic heavy hand, it has determined that none of these options are possible for Canadians.

As recently as 2003, the very same year that it submitted the original three questions of a draft bill on same-sex marriage to the Supreme Court of Canada, this Liberal government argued in favour of a traditional definition of marriage at the Ontario Court of Appeal. For some reason, the government changed its mind, and now Paul Martin's Liberals have chosen to go the route of divisiveness.

[Translation]

There was no need to create these divisions, because there was no need for the bill.

Senator Prud'homme: Honourable senators, I think I can say openly that I felt, from the outset, that this bill — and I begin where Senator Stratton left off — was not needed.

Second, I want to thank the committee chair, as others have done, for her considerable patience. Those who know Senator Bacon know that she cannot be told how to conduct herself when she is chairing. I have had the extraordinary human experience of attending 28 hours of hearings, without interruption—as she has, since she was chairing. I have to tell you that we heard everything under the sun. And this is what is upsetting when it comes to making a decision as important as this one.

I voted for the amendment put forward by Senator St. Germain earlier. Perhaps not for the reasons he gave. It is because I am the longest sitting parliamentarian, not necessarily the oldest. Soon, it will be 42 years. One of the greatest experiences of my life was to travel across Canada in 1971 for the renewal of the Constitution. Why would I have preferred we had locations across Canada? For reasons different from those of the people who think it is cost effective electorally.

It is because it is possible to find senators and MPs who are calm and able to listen to things they profoundly disagree with. Allowing people to say things that seem unreasonable frees the heart and mind of the nastiness that is to be found pretty much everywhere. When you hear them speaking in public, those who think like them are almost ashamed to admit "I cannot imagine that is exactly what I was thinking". In this regard, the committee could have sat across the country, I am sure.

Senator Di Nino said "it is very simple." I love people who see things so clearly. He said:

(2240)

[English]

"It is an eight-letter bill — marriage." Immediately, that has meant immense confusion for French Canadians.

[Translation]

If I were to follow his example, I would point out that there are only seven letters in "mariage", the French word for marriage.

What would that prove? In my 42 years as a parliamentarian, and even before that at university, I have heard many predictions of the end of our institutions.

When campaigning with Mr. Pearson, in January 1964 — imagine, we were in a minority position — he had me promise my constituents that there would be a Canadian flag before the next election. What audacity! We were in a minority position, but I was very young, and I made that promise. I had the honour to accompany Mr. Pearson to Manitoba, a province I know well, having done military training with the Provost corps at Shiloh.

[English]

Needless to say, my first choice was the navy, but they spoke only in English so I ended up in Shiloh, Manitoba, thanks to history. Everyone said that this would be the end of Canada; what a change it was to be — a Canadian flag. A few years later, Mr. Marcel Lambert, former Speaker of the House of Commons, was rejoicing and handing out Canadian flags to the children. I watched him gently and smiled. He asked why I was smiling and I said that I was simply remembering the speeches he made during the Canadian flag debate in the 1960s.

Then we entered another tough debate on the national anthem. That was supposed to be a most atrocious debate, one that would end the country as we knew it. Some people still want to bilingualize it and have it played in French in British Columbia and in English in Chicoutimi. I disagree with that proposal. However, we came through the debate.

Then we arrived at the death penalty debate, a crucial time for the young member of Parliament that I was. I thought that we should make an alliance, and so I made one with Jim Fleming who became a minister from Toronto. He came to understand what I believe Canada is all about. We reached a solution when we decided that rather than have the death penalty in Canada there should be a minimum 25 years without parole. He was an English Canadian Protestant from Toronto. I was a French Canadian Catholic from Montreal. I thought we should unite our efforts and we did; and we won in favour of abolishing capital punishment.

Then we had the abortion issue, which was unbelievable. Press reports, even in *The Globe and Mail* that I read faithfully every day, continue to say that it is because of the Supreme Court that we have no abortion laws in Canada, but that is not true. It is because of the Senate; and that is easy to remember. The vote on Bill C-43 was 43 to 43. Some senators here tonight remember voting for that bill. That means Canada is one of the few countries in the western world that has no law whatsoever on abortion. I believe in life. My dilemma during that debate was as great as it is during this debate on Bill C-38. Who are we to judge others for being the Cassandra and predicting the end of time. I say, do not worry. Some witnesses who appeared before the committee last week told us how horrible things will be. One very fine lady from British Columbia, the National Vice-President of REAL Women, got the best from me. I told her that I am the youngest of 12 and that my mother was a real woman. However,

she fought for her rights. If she had waited for the Senate and others, we would never have had the vote in Quebec. It is because of people like her that eventually, after 800 years, women had the right to vote. How many hundreds of years did it take for the Blacks to be considered equal to Whites?

I know it is difficult, and I say that openly, for me to vote in favour of this bill, but I will do it. I have gone the extra mile to understand people's views on the issues. I know there is a division amongst the older generation. I called more than 100 people last week in addition to hearing from witnesses for 28 hours in committee. I have four living female ex-presidents out of eight; the four men died. I consulted with them. I spoke to their children and grandchildren in Saint-Félix-de-Valois, Joliette — older generation and younger generation. Why do we not have faith in people? Those were the first words of Pope John Paul II. What is to fear from this bill? I do not like it, but we have a bill before us and how do we dispose of it? By saying no?

Senator St. Germain: Yes, for sure.

Senator Prud'homme: Some say yes, but I will take my decision, explain it and live with it. If the committee had travelled across Canada during its consideration of the bill, we could have succeeded in explaining to people by being patient with one another. The Vice-President of REAL Women said that I might not remember but she spoke to me during the deliberations in 1971 in Vancouver. She said that I was as charming then as I am today but that I could never convince her on this bill.

Senators have the power of conviction. Senator Tkachuk and I demanded that the minister appear again before the committee, and he did so. We demanded television coverage, which was supposed to be impossible we were told, and we succeeded on the Wednesday morning in time for the appearance of the minister.

[Translation]

Cardinal Ouellette was there and had some things to say. I was the one who questioned him, so I was the one he said them to. I was surprised. I was expecting a message of hope. Is there not enough division already in this troubled world? I asked myself that, and I asked him that. His answer was, as Senator Milne has said, that he would deny baptism.

That really broke my heart and troubled my mind. I asked myself, how can anyone turn away a child? A child is a gift from God. How can anyone deny a child baptism because his parents are not what we would like them to be?

I remember the days when some children were called bastards, fatherless, without parents. We remember those days and it was regrettable. Nowadays, would we dare call a child illegitimate or a bastard? That is no longer done. Between the ages of 7 and 15, I was the top canvasser for "la Sainte Enfance."

• (2250)

[English]

Only Catholics, French Canadians and Acadians would ever understand that. I never raised money for the Liberal Party of Canada, but I raised money in my youth. There was a convent in China called the Sister of the Immaculate Conception. Those nuns were the ones who opened my eyes to understanding China. They collected all the young baby girls and they baptized some, and I met some of these girls. Did the priest then ask how this child was conceived? Is he the son of sin; is he the son of illegal parents? He just baptized them. Maybe culturally that was not the thing to do but that is what they did.

I say to my colleagues, do not have fear; the institution of marriage is very strong but it is changing. I belong to a generation where there was a father, mother, grandparents and a lot of children. Today, I meet lots of children and, in many places, few children with so many parents. Are they worse off today than they were then? It is an immense change in our society.

Canada is not showing the way, because I do not like Canada to show the way that way. However, it is a fact of life that exists today. This bill will open a lot more problems. I agree with some of my colleagues. I do not want anyone to be penalized if they refuse.

My father was a medical doctor. He delivered over 9,500 babies. He taught me what life was all about.

People are in such a hurry to leave and they have no patience. If you do not want to hear when it comes to 15 minutes, I will shut up and I will tell you more later on, but be patient for now.

My father delivered these babies and more than half for free because I lived in a working class district and I still live there today. I am sure my father was against abortion but he told me this is not the question. We should not be forced to do abortions, neither a nurse nor a doctor; but in certain circumstances, they do not even ask themselves, am I for life, am I for the baby and against the mother or for the mother and against the baby? If they were alone and had to act, they did not act philosophically. They acted medically most of the time. I am sure they always saved the mother first because she had so many other children to look after.

Today, we know that some doctors could refuse to do an abortion. I would side with them except in cases of emergencies. I would say the same thing for nurses who refuse for religious reasons to attend an abortion unless, again, it is an extreme emergency. However, I do not see any urgency to ask someone who profoundly believes it is against their moral principles or whatever, because I have seen enough in my 41 years. I have heard enough, honourable senators, in my 41 or 42 years to say that enough is enough. If it is because of the sanctity of marriage that you want to vote against the bill, these people who talk about the sanctity of marriage are not too full of sanctity in the way they behave outside their house; but they are there to preach about the sanctity of marriage.

I would love to live in a society where you have a nice equilibrium, where you have grandparents, parents and children who have girlfriends and boyfriends, but we do not live in this idyllic society. Therefore, I will say to my colleagues, with great difficulty — I would have preferred not to

The Hon. the Speaker: Senator Prud'homme, do you wish additional time? Five minutes, Senator Prud'homme?

Senator Prud'homme: No, I will not abuse the patience of my colleagues. It is late. I would have preferred this debate to be earlier for my health. I would have been tougher and more passionate. I do not like to read a speech; perhaps it would have been better to have a good speech drafter to write a good speech. Do not bother me with that applause. Like alcohol, it might go to my head.

All I can say, honourable senators, is that I took this debate immensely seriously because I want to be fair. This is one of the first words I ever learned in English. Is it fair, is it unfair? I think to treat people differently is unfair.

My two last messages will be for the older citizens, people of my age. Show by your love to each other; show by example. Do not preach; be a walking Christian. That is what I learned when I went to listen to the Bible read by Mr. Manning. I told him that my father said, "Do not preach, act, and people will say, who is this good person, who is this good woman, who is this good man?" People will say that is a good Christian, to be a walking Christian. I can see the headlines: "Mr. Prud'homme said be a good walking Christian." You show by example.

For the young people, I have spoken to all young people who work in Parliament; I conclude with them, love each other with passion.

[Translation]

Take a bite of life, but be serious and honest with yourselves. The human body is like a child. It is a gift of God. We cannot abuse our body.

You see how far I could go in this speech. I want people my age to understand that, by their example, they can save this so-called institution of marriage. It is perhaps under attack by some, but it is not in danger. I do not believe so in my soul and my conscience. If I did, I would vote against the bill.

I waited, I thought, I consulted and I concluded that my conscience could sleep in peace tonight. Yes, I voted for the bill, but I left a message for young people. I said, "Respect your body. Be more respectful in your relationships. If you choose traditional marriage, be faithful to each other. If you choose another path, be faithful to one another." This is how to respect the human body. Living together must be harmonious and respectful. That is what we should preach. There are people like me who would have loved to travel around Canada with Senator St. Germain and a number of other friends from the Conservative party to listen to Canadians spew out their nastiness to us, to talk with them very wisely and patiently with the understanding that there are people with things to say, that people for years have been wanting to tell us of their despair. It is by listening that we achieve a dialogue and comfort people saying, "Do not be afraid, Canada is in good hands, and the institution of marriage is not in danger."

[English]

Hon. Ione Christensen: Honourable senators, the hour is late. I did have a presentation but most of my points have already been addressed. I do not feel that rereading them and putting them on to the debates would expand upon the debates that we have had, I will go to the last sentence of my presentation because I think it has something for us.

One of my constituents emailed me and asked me how I was going to vote on Bill C-38, and I said I would be supporting it. These are the words that this constituent said; he is in a same-sex marriage in the Yukon:

You have no idea what a difference it makes to the human spirit to know that you are treated equally under the law.

Hon. John G. Bryden: Honourable senators, I did not realize there was not time for a comment. All I wanted to do is make a comment in relation to Senator Prud'homme's presentation.

I have been here for almost 11 years now and I have heard Senator Prud'homme do his rants sometimes and his oratorical flights. I just want to say to him that it is one of the finest speeches he has ever given. Everyone in this room probably enjoyed it thoroughly.

(2300)

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Will those in favour of the motion for third reading of Bill C-48 please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker: Is there an agreement as to the length of the bell?

Senator LeBreton: Fifteen minutes.

Senator Losier-Cool: Fifteen minutes.

The Hon. the Speaker: Is that agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: There will be a 15-minute bell. The vote will take place at 11:17 p.m.

• (2320)

Motion agreed to and bill read third time and passed on the following division:

YEAS THE HONOURABLE SENATORS

Atkins Austin Bacon Baker Biron Bryden Callbeck Chaput Christensen Cook Cordy Dallaire Downe Dyck Eggleton Fairbairn Fitzpatrick Furey Grafstein

Losier-Cool Mahen Mahovlich Massicotte Meighen Mercer Milne Mitchell Munson Nancy Ruth Pearson Pépin Peterson Poulin Poy Prud'homme Ringuette Robichaud

Prud'hom Ringuette Robichau Rompkey Smith Spivak Tardif

Trenholme Counsell—47

NAYS THE HONOURABLE SENATORS

Angus
Banks
Buchanan
Cochrane
Comeau
Cools
Di Nino
Eyton
Forrestall
Gustafson

Harb

Hubley

Jaffer

Joyal

Kenny

Kelleher Keon Kinsella Merchant Phalen Plamondon Sibbeston St. Germain Stratton Tkachuk—21

Hervieux-Payette

ABSTENTIONS THE HONOURABLE SENATORS

Corbin LeBreton Moore-3

Hon. Wilfred P. Moore: Honourable senators, I wish the chamber to know that I abstained from voting pursuant to an agreement that I entered into with an absent senator. Had I participated in the vote, I would have supported the subamendment of Senator Banks, which I thought was wellfounded, and I would have voted against the unamended bill.

BILL TO AUTHORIZE MINISTER OF FINANCE TO MAKE CERTAIN PAYMENTS

THIRD READING—DEBATE ADJOURNED

Hon. Art Eggleton moved third reading of Bill C-48, to authorize the Minister of Finance to make certain payments.

He said: Honourable senators, I doubt there is much enthusiasm for a lengthy, 45-minute speech on a new item.

Some Hon. Senators: Oh, oh!

Senator Eggleton: Thus, I will be mercifully short in terms of my comments. However, I do wish to respond to issues that were raised in committee. Honourable senators will note that when the report from the Finance Committee was submitted by Senator Oliver, there was an attachment of observations. I wish to point out that unlike many other observations, these were not of the committee.

The Hon. the Speaker: Honourable Senator Eggleton, I am sorry to interrupt, but I must ask for quiet in the chamber. I am having difficulty hearing you, and I am sure other senators are as well.

Senator Eggleton: Honourable senators, the observations attached to the report are not of the committee; they are of a minority of the committee. The Conservative members of the committee have filed this report. I wish to comment on some of the issues that they raised. In particular, I will speak about their concern about no details or no role for Parliament.

Senator Stratton: Especially the NDP!

Senator Eggleton: With respect to the issue of no details that they raise, I wish to refute that by using four points. First, if one looks at how spending items are generally presented in the budget, and including this year's budget, including those items that went into Bill C-43, one will find that the presentation is not very different at all. There are some items, such as those that dealt with Employment Insurance and environmental issues, where there was a significant amount of detail because of the requirement for legislation on implementation of various structures within the presentations that were made. When it comes to actual items for expenditure, there is no greater amount of information provided than has been provided in Bill C-48.

For example, in Bill C-43, it talks about \$1 billion for an innovative clean fund to further stimulate cost-effective action to reduce greenhouse gas emissions in Canada. This is a good purpose, but limited in terms of detail about how a large amount of money is being spent.

Another item says \$398 million over the next five years to enhance settlement, integration programs and improved client services for newcomers to Canada. This is a worthy purpose, but again about the same amount of detail as one would find in Bill C-48.

There is an investment of \$171 million over five years to celebrate Canada and to help Canadian diversity find its voice in communities across the country. I could go on. There are many like this. There is not a substantial difference in terms of the level of detail that is provided in Bill C-48 in the four expenditure items that are noted that make up the \$4.5 billion.

Second, one of the reasons there cannot be more detail is because of the conditions that the government has put on the bill, with respect to being able to achieve a surplus, but only to do that after the \$2 billion level is reached, before any of these expenditures are made.

There are four important principles. I wish to repeat them. First, something that was said at second reading, but it is important to note that there must first be the assurance of no deficit. The Minister of Finance has made it clear that the support of this bill is on the basis of not returning to a deficit position. Second, the assurance of continued debt reduction and the \$2 billion in each of the next two fiscal years — \$4 billion — ensures that we continue on that path where we have already made substantial reductions in the debt, and are well on the path of reaching a level of 25 per cent of GDP, being the debt level by 2015, some 10 years from now. This is absolutely the best record of any country in the G7.

Some Hon. Senators: Hear, hear!

Senator Eggleton: The third aspect is the profiling of two particular tax measures in a separate piece of legislation: Those things that were deleted from Bill C-43 will return. There is a commitment to bring them back.

Fourth, the investment priorities are consistent with the government's own spending commitments.

That is clearly what will be done in each of these four areas, whether that is affordable housing, post-secondary education, the environment or international assistance. All these elements are in accordance with government programs that have been devised over a number of years. They build on that framework and investment that has been made.

There is not a significant amount of detail at this point, but we have not reached the \$2 billion point to know whether the entire \$4.5 billion will be addressed in one year, two years or whether or not it will be achieved. Obviously, more details will be fleshed out that will provide an opportunity for all honourable senators to make further representation.

It is interesting to note that one of the witnesses at the committee was the Comptroller General of Canada. This officer of the government, like the Auditor General, is very interested to ensure that money is spent wisely. When he came to the committee, he said that he liked the approach in Bill C-48. He found it to be prudent and to bring about better accountability and oversight. He is saying this because, until now, over a number of years we have had budget surpluses, and at the end of the fiscal year, budget surpluses automatically go against the debt.

Prior to the fiscal year, for a number of years, we have been booking in the fiscal framework some of that just-about-to-be surplus and putting it towards worthy measures.

(2330)

We all know the story about the foundations for innovation, for health issues, for the Millennium Scholarship Program, and many other worthy purposes to which these monies have been put. The difference here is that the government is saying upfront, a whole year in advance of the end of this fiscal year and even more so when you get to the next fiscal year, that if we get to the surplus levels, over the \$2 billion, then this is how we will spend it. We will spend it on the environment and on affordable housing, all in accordance with government programs.

The Comptroller General's comments are right on, and that is that this is an advancement over what has been done in previous years where the government just comes up towards the year-end and just books this amount of money, and there is little advance notice of where, in fact, it will be allocated. In this case, we know far in advance, and even when the allocation is made towards the end of the fiscal year there will be time for comments on the details of how it will be spent, because it will not be spent until after the close of the books, which comes quite a number of months later.

Finally, let me say with respect to the matter of details again, there is a framework for these programs. In the case of affordable housing, over the last number of years the government has allocated some \$2 billion: \$1 billion for affordable housing and \$1 billion for the homelessness initiative. Money is going into areas of energy conservation and into retrofitting in houses. These are the kinds of programs on which this will be based.

With regard to post-secondary education, I know that Senator Kinsella particularly spent time talking about his concern on this subject on second reading. The provinces having responsibility, he said, for education. Yes, and indeed if any of the monies that are to be spent in areas for which the province has responsibility, there will be consultation. In fact, the secretary to the minister who came to the committee made it clear that consultations would go on with provincial governments in that respect.

Notwithstanding that, there have been substantial investments in post-secondary education in the last number of years. Over the last number of years, some \$5 billion has been allocated by the government. It has gone into areas such as research chairs at our universities. A very substantial amount has gone into student loans. There are areas where, in fact, investments can be made that do not in any way infringe upon provincial jurisdiction. The Millennium Scholarship Program is another example. There are many areas where, in fact, there can be assistance, particularly for people of low income.

I will say something about affordable housing because it was in this chamber at second reading that Senator Tkachuk rose and talked about what he thought was only \$100 million that Bill C-48 was proposing that was different from what had been budgeted. He said that the minister mentioned \$1.5 billion in the House of Commons committee when talking about the matter. He quoted the minister, the Honourable Joe Fontana, as saying that originally our government committed to spending

\$1.5 billion over five years, which was reiterated by Minister Goodale following the tabling of budget 2005. Senator Tkachuk said that there was \$1.5 billion allocated in the budget over five years. They took that \$1.5 billion, made it \$1.6 billion and said that, instead of spending it over five years, they would spend it over two years. Therefore, it is \$100 million accelerated over two years.

That is false, honourable senators. Senator Tkachuk should have gone on to read the comments by the minister in that same committee meeting. The minister then went on to say that about a year and half ago we had said in our platform that we would provide assisted housing with a further \$1 billion to \$1.5 billion over the next five years. No, it was not mentioned in the budget. It was, in fact, a matter that came up for the first time in Bill C-48, in terms of actual expenditure by the government, so it is fully \$1.6 billion; not as it was presented by Senator Tkachuk.

Those are the questions of details. I will briefly look at this question of the role of Parliament. Again, the Comptroller General said that there is better accountability here. He talked about the fact that the matter would go to the Treasury Board, and that he would have input in what goes to the Treasury Board. He talked about the same mechanisms that occur with any other budget, that they come in the Supplementary Estimates or in the Reports on Plans and Priorities presentations, or even before the money is spent.

There is nothing that would stop honourable senators from calling before the committee a minister and asking how their plans are forming with respect to the expenditure of these items. Indeed, I believe there is a role for Parliament and there is a role for the Senate.

This bill, which will allocate \$4.5 billion toward the priorities of Canadians, toward the priorities of our government in dealing with the issues that are of concern to Canadians, deserves your support. I hope you will give it that support at third reading.

On motion of Senator Tkachuk, debate adjourned.

NOTICE OF MOTION FOR TIME ALLOCATION

Hono Bill Rompkey (Deputy Leader of the Government): Honourable senators, I rise pursuant to rule 39 to inform the chamber that I have had a discussion with my counterpart with regard to the disposition of Bill C-48. It has not been possible to reach an agreement to allocate a specific number of days or hours for consideration of the third reading stage of this bill. Therefore, I give notice that tomorrow I intend to move the following time allocation motion:

That, pursuant to Rule 39, not more than a further six hours of debate be allocated for the consideration of the third reading stage of Bill C-48, An Act to authorize the Minister of Finance to make certain payments;

That when debate comes to an end or when the time provided for debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the third reading stage of the said Bill, and

That any recorded vote or votes on the said question shall be taken in accordance with Rule 39(4).

The Hon. the Speaker: Senator Rompkey, you were looking for agreement to go to the adjournment motion?

Senator Rompkey: I simply gave notice of a motion, and now it is my intention to adjourn the Senate.

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): I am sorry, what I would like to propose is that we stand all items on the Order Paper in their place until the next sitting of the Senate. It has been a long day, it is late and I apologize, but I would like to make that proposal.

The Hon. the Speaker: Is it agreed, honourable senators?

Some Hon. Senators: Agreed.

The Senate adjourned until Wednesday, July 20, 2005 at 1:30 p.m.

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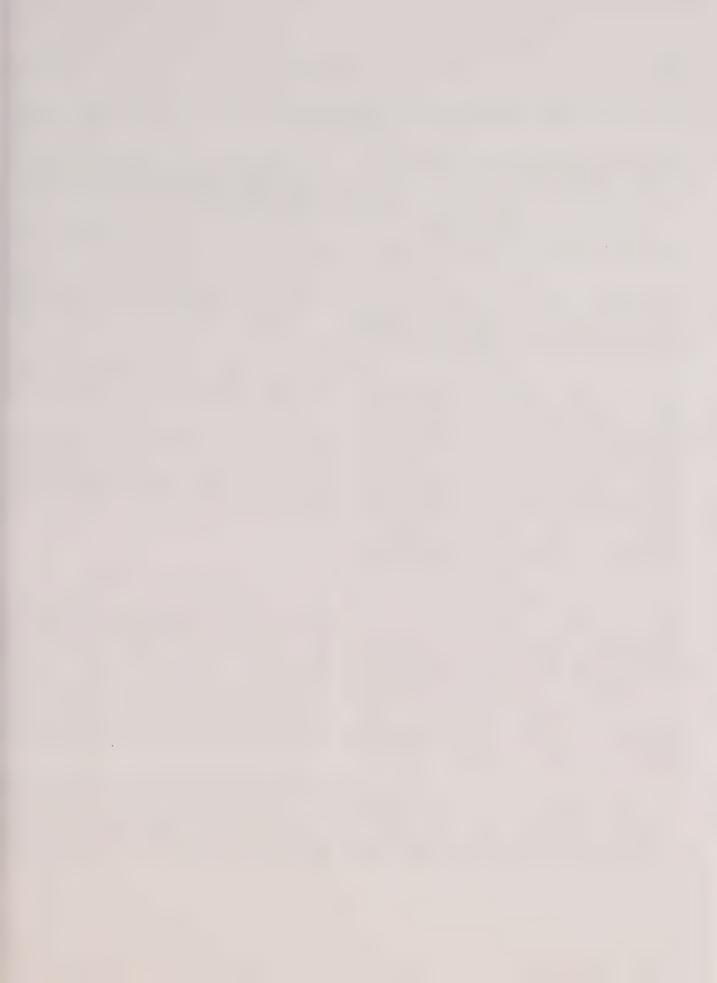
Wednesday, July 20, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

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Debates and Publications: Chambers Building, Room 943, Tel. 996-0193



THE SENATE

Wednesday, July 20, 2005

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

LONDON BOMBINGS

Hon. Mobina S. B. Jaffer: I rise today knowing that all honourable senators will join me in offering our continuing support to the people of Great Britain, and in sending our sympathies to those who have lost loved ones or suffered injuries in the bombings that occurred in London on July 7.

I stand before you as a Muslim Canadian. Canada has given my family and me asylum, and has given my community and me a place to practice our faith and to participate fully in society. We proudly say that we are Canadian. Through marriage, I am also a British citizen. I was in London on July 7 while on my way to Sudan when these heinous acts were committed against innocent and unsuspecting civilians. The bombs exploded in places that I know well, and frequented during my time as a university student in London. When I heard of the attacks, my thoughts turned immediately to my daughter who was working in London at the time. Though I knew it was unlikely that she was anywhere near where the attacks took place, as a parent I was overtaken at the thought of losing her. Like many around me, throughout London and across the world, my thoughts turned to my friends and family, and I hoped that they would be alright. However, the truth is that those who were injured and killed are also my family and friends in a larger sense. The attacks have caused great pain for all of us.

Canadians are deeply concerned with any act of terrorism. We feel the pain felt by all those who feel its effects as if it is our own. Four acts of terrorism stand out in the minds of many Canadians. First, the bombing of Air India Flight 182, for which, sadly, Canadians of Indian origin are still thirsting for answers. The second is the attacks on Pennsylvania, Washington and New York on September 11, 2001, which we mourn collectively as a nation. The third is the attacks on the people of Madrid, Spain and now, the fourth, the bombings in London. Many have argued that it is religion, especially Islam that provided the motivation for the attacks. Some have said that there are two faces of Islam: peaceful and war-like. As a Muslim and Canadian who believes in harmony and mutual respect, I must reject this characterization. To quote my spiritual leader, the Aga Khan:

This just represents a very, very small minority of the world's Muslim population. Also, these people are primarily driven by political and not religious motives. It would be wrong to consider them representative of Islam. The Western world has to take a close look to see which forces are in play in order to differentiate between belief and things that have nothing to do with belief.

We as Muslims could also ask the same things: like what's happening in Northern Ireland. If I as a Muslim came to you and were to say: What's happening in Northern Ireland reflects Catholic and Protestant beliefs, then would you say: you're uneducated.

In a joint statement, 22 of Britain's most respected Muslim Imams and scholars condemned the bombings. They said:

We are firmly of the view that these killings have absolutely no sanction in Islam, nor is there any justification whatsoever in our noble religion for such evil actions. It is our understanding that those who carried out the bombings in London should in no sense be regarded as martyrs.

If ever there was a time to build an integrated community where all are equal, it is now. I urge our government to seek answers to ease the pain of all those who have suffered from acts of terrorism and to launch a public inquiry into the Air India bombing to heal the wounds of the Indo-Canadian community.

Honourable senators, the attacks on innocent Londoners shocked the world. Canadians of all backgrounds are standing shoulder to shoulder with their British brothers and sisters in resisting terrorism and refusing to succumb to fear. Canadian Muslims want it on the record that these attacks have not been and should never be carried out in their name or in the name of their faith.

SENATE CHAMBER

CANADA DAY CITIZENSHIP SWEARING-IN CEREMONY

Hon. Roméo Antonius Dallaire: Honourable senators, on Canada Day, July 1, I attended the events on Parliament Hill with my daughter, whose son was part of the ceremonial guard. It was a hot day so we decided to come inside, to the Senate chamber, to cool off. We came face to face with dozens of Canadians from a variety of ethnic backgrounds who were exiting the red chamber and being treated to cake and other refreshments. By chance, I met the Usher of the Black Rod, Terrance Christopher, and asked him what was going on. Colonel Christopher had sat in my Senate seat during the events. With obvious joy and pride, he indicated that the Governor General had suggested conducting the swearing-in ceremony of 50 new Canadians in this chamber.

I considered that an absolutely magnificent initiative, heartily supported by the Speaker, the Usher of the Black Rod and the staff. I decided that such an innovative use of this chamber for these ceremonies could be brought more to the fore. As we look toward the next decade and realize the changing demographics, immigration to Canada might triple over that time because of the need to maintain a youthful and capable approach across the country to meet the challenges of the future. What an excellent

initiative and what a fine use of this chamber to introduce new Canadians and give them both the citizenship and the responsibilities of being Canadians.

• (1340)

I will end by saying that the presence of the Governor General in this chamber among us, or opportunities to have her here, should be looked upon as a positive use of the chamber, one that will bring more presence and perhaps attract more positive interest in this chamber.

I am well aware that the Governor General would normally have to be invited, and I certainly do not want to start Cromwell's concerns about the Crown bringing in the loyal artillery company to throw us out at gunpoint. However, I do believe that innovative uses of this chamber in the advancement of our citizenry should be considered and that her presence should be all the more encouraged.

Bravo to all concerned on this trend-setting initiative. I hope that in the future new Canadians from different parts of the country may be invited to this ceremony.

SOCIAL DEVELOPMENT

NEW BRUNSWICK— REJECTION OF CHILD CARE PROGRAM

Hon. Pierrette Ringuette: Honourable senators, Bernard Lord is refusing to sign on to Ottawa's child care scheme. That situation is unacceptable. This agreement would allocate approximately \$110 million to start building New Brunswick's child care system over the next five years; and Premier Bernard Lord is putting the future development of the children of New Brunswick at stake.

[Translation]

It is my firm conviction that Premier Lord should recognize that the people of New Brunswick want their provincial government to sign the agreement, so that the \$109.9 million in child-care funding offered by the federal government can start flowing to our children. In my opinion, the children of New Brunswick should enjoy the same advantages as those in other provinces when it comes to federal funding

The day-care situation in New Brunswick is deplorable. In 2003-04, New Brunswick had only 11,897 places in regulated day-care centres, which covers scarcely 11 per cent of the demand. Because of this, most children are entrusted to care services that are never inspected and not required to implement a development program. Both parents work outside the home in 75 per cent of New Brunswick families.

If the province wants to meet these additional needs, it must sign an agreement with the federal government and develop a five-year action plan that will lead us toward a system of quality child-care services. These agreements are flexible and tailored to the realities of people in all regions of the country, in both rural and urban communities. Alberta, Nova Scotia, Newfoundland and Labrador, Ontario, Saskatchewan and Manitoba have already signed agreements.

It is now clear that the only obstacle to reaching an agreement is a lack of desire on the part of the Lord government to ensure the viability of a true universally accessible early childhood care program.

The people can easily see that Bernard Lord simply wants access to federal money that he can spend however he wants. The same applied to the gas-tax sharing agreements, intended for cities and communities. Premier Lord is trying to spend money as he wants without being tied by the principles that underlie it. This manipulation is now a customary practice with his government.

Bernard Lord refused to listen to the people of New Brunswick on automobile insurance. And now he is not listening to the people of New Brunswick who want an enhanced early childhood care services system.

New Brunswick already has in place the programs required by the federal agreement, which means Premier Lord recognizes that such programs are valuable, which means he has no excuse. His real excuse is nothing but his own pig-headedness, which is leading to the political posturing of the emperor who had no clothes, as far as our children are concerned.

[English]

CANADIAN FORCES ARMY PARLIAMENTARY PROGRAM

Hon. Consiglio Di Nino: Honourable senators, a few weeks ago I had the privilege of participating in the Canadian Forces Army Parliamentary Program. I was in Petawawa embedded with the 2 Combat Engineering Regiment, which was part of several hundred Canadian Forces members training for deployment to Afghanistan. The deployment is scheduled for some time in the next two to three weeks, although I believe some have already left.

This four-and-one-half day experience was an eye-opener for me. I met dozens of men and women who are some of the most dedicated and committed Canadians I have ever known. I was most impressed with the level of their skill, their professionalism and their understanding of their mission and mandate. All of them are ready and willing to face the risks associated with their job.

They are keenly aware of the enormous responsibilities they have undertaken and recognize the value of their contribution to protecting the lives of innocent men, women and children in some far-off land. The duty to defend democratic values and to protect basic rights for those who are oppressed is strongly embraced by our soldiers.

I need not remind honourable senators that the part of the world to which these soldiers are being assigned is a very dangerous area and the risks these men and women will face are serious indeed. Yet, I never once encountered a soldier who wavered or who was hesitant. I now know better why our soldiers are so respected and praised by the UN and by military people all over the world.

Later this summer, honourable senators, I will be joining these same soldiers in Afghanistan to complete this unique experience. After my return, I will give a full report of my involvement in this program. In the meantime, I extend my heartfelt thanks to all the soldiers for their patience and friendship in Petawawa.

Most of all, I extend our gratitude to all Canadian Forces members for making us proud of our Canadian contribution to world peace. A very special thanks must go to the soldiers' families for their sacrifices and unwavering support.

MARRIAGE RIGHTS OF ABORIGINAL WOMEN

Hon. Nancy Ruth: Honourable senators, yesterday there was much talk about the Charter, equality rights and marriage. I rise today simply to remind us that equality rights in marriage and divorce are not yet available to Indian women on reserves. They do not have the same rights as every other Canadian woman does at the time of divorce, and no government has fixed it in the last two decades at least.

BRITISH COLUMBIA

VANCOUVER— STRIKE OF CONTAINER TRUCK DRIVERS

Hon. Gerry St. Germain: Honourable senators, Vancouver's container truck drivers have been staging a work stoppage since June 27, stalling the movement of more than \$200 million of goods through the Vancouver waterfront every week. Everything from export items like pulp, special crops originating on the Prairies, perishable goods and import items destined for retail department stores in Canada are affected by the strike.

Just last week, honourable senators, Vince Reddy, a facilitator jointly appointed by the federal and provincial governments, stated that the parties were too far apart for meaningful talks to continue. On July 15, Captain Gordon Houston, President of the Vancouver Port Authority, stated that Ottawa might be able to use the Canadian Transportation Act to order the truck drivers back to work.

In view of the fact that the current dispute is causing major problems not only in the Vancouver trade corridor, the Export Development Corporation has downgraded Canada's growth prospects for 2005.

Given Captain Houston's comments, I hope the Leader of the Government in the Senate will take a leadership initiative, which I am sure he will, in dealing with this serious problem that is facing all of Canada.

ROUTINE PROCEEDINGS

SPEAKERS DELEGATION TO PEOPLE'S REPUBLIC OF CHINA

REPORT TABLED

Hon. Daniel Hays: Honourable senators, I have the honour to table the report of a visit that I had the honour to lead to the People's Republic of China, which took place from June 6 to June 10, 2005.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

ELEVENTH REPORT OF COMMITTEE PRESENTED

Hon. George J. Furey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Wednesday, July 20, 2005

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

ELEVENTH REPORT

Your Committee recommends that the following funds be released for fiscal year 2005-2006 and that the Standing Senate Committee on National Finance be empowered to travel to the United Kingdom and Scotland for the purpose of its study of the Estimates:

National Finance (Legislation)

Professional and Other Services	\$ 18,700
Transportation and Communications	\$ 71,855
Other Expenditures	\$ 4,850
Total	\$ 95,405

(includes funds for fact-finding mission)

Respectfully submitted,

GEORGE J. FUREY Chair

• (1350)

The Hon. the Speaker: When shall this report be taken into consideration?

On motion of Senator Furey, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

THE SENATE

MOTION TO EXTEND SITTING ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate, I move:

That, notwithstanding the Order of the Senate of November 2, 2004, when the Senate sits today, Wednesday, July 20, 2005, it continue its proceedings beyond 4 p.m. and follow the normal adjournment procedure according to Rule 6(1).

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Hon. Marcel Prud'homme: We were consulted and we agree.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

FOOD AND DRUGS ACT

BILL TO AMEND—FIRST READING

Hon. Jerahmiel S. Grafstein presented Bill S-42, to amend the Food and Drugs Act (clean drinking water).

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Grafstein, bill placed on the Orders of the Day for consideration two days hence.

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE RESOLUTION ON COMBATING ANTI-SEMITISM

Hon. Jerahmiel S. Grafstein: Honourable senators, I give notice that on Friday next, July 22, 2005, I will move:

That the following resolution on Combating Anti-Semitism which was adopted unanimously at the 14th Annual Session of the OSCE Parliamentary Association, in which Canada participated in Washington on July 5, 2005, be referred to the Standing Senate Committee on Human Rights for consideration and that the committee table its final report no later than February 16, 2006.

RESOLUTION ON COMBATING ANTI-SEMITISM

Recalling the resolutions on anti-Semitism by the OSCE Parliamentary Assembly, which were unanimously passed at the annual meetings in Berlin in 2002, in Rotterdam in 2003 and in Edinburgh in 2004,

- 1. Referring to the commitments made by the participating states emerging from the OSCE conferences in Vienna (June 2003), Berlin (April 2004) and Brussels (September 2004) regarding legal, political and educational efforts to fight anti-Semitism, ensuring "that Jews in the OSCE region can live their lives free of discrimination, harassment and violence",
- Welcoming the convening of the Conference on Anti-Semitism and on Other Forms of Intolerance in Cordoba, Spain in June 2005,
- Commending the appointment and continuing role of the three Personal Representatives of the Chairman-in-Office of the OSCE on Combating Anti-Semitism, on Combating Intolerance and Discrimination against Muslims, and on Combating Racism, Xenophobia

- and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions, reflecting the distinct role of each in addressing these separate issues in the OSCE region,
- 4. Reaffirming the view expressed in earlier resolutions that anti-Semitism constitutes a threat to fundamental human rights and to democratic values and hence to the security in the OSCE region,
- 5. Emphasizing the importance of permanent monitoring mechanisms of incidents of anti-Semitism at a national level, as well as the need for public condemnations, energetic police work and vigorous prosecutions,

The Parliamentary Assembly of the OSCE:

- 6. Urges OSCE participating states to adopt national uniform definitions for monitoring and collecting information about anti-Semitism and hate crimes along the lines of the January 2005 EUMC Working Definition of Anti-Semitism and to familiarize officials, civil servants and others working in the public sphere with these definitions so that incidents can be quickly identified and recorded;
- 7. Recommends that OSCE participating states establish national data collection and monitoring mechanisms and improve information-sharing among national government authorities, local officials, and civil society representatives, as well as exchange data and best practices with other OSCE participating states;
- Urges OSCE participating states to publicize data on anti-Semitic incidents in a timely manner as well as report the information to the OSCE Office for Democratic Institutions and Human Rights (ODIHR);
- Recommends that ODIHR publicize its data on anti-Semitic crimes and hate crimes on a regular basis, highlight best practices, as well as initiate programs with a particular focus in the areas of police, law enforcement, and education;
- Calls upon national governments to allot adequate resources to the monitoring of anti-Semitism, including the appointment of national ombudspersons or special representatives;
- Emphasizes the need to broaden the involvement of civil society representatives in the collection, analysis and publication of data on anti-Semitism and related violence;
- 12. Calls on the national delegations of the OSCE Parliamentary Assembly to ensure that regular debates on the subject of anti-Semitism are conducted in their parliaments and furthermore to support public awareness campaigns on the threat to democracy posed by acts of anti-Semitic hatred, detailing best practices to combat this threat;

- 13. Calls on the national delegations of the OSCE Parliamentary Assembly to submit written reports at the 2006 Annual Session on the activities of their parliaments with regard to combating anti-Semitism;
- 14. Calls on the OSCE participating states to develop educational material and teacher training methods to counter contemporary forms of anti-Semitism, as well as update programs on Holocaust education;
- 15. Urges both the national parliaments and governments of OSCE participating states to review their national laws:
- 16. Urges the OSCE participating states to improve security at Jewish sites and other locations that are potential targets of anti-Semitic attacks in coordination with the representatives of these communities.

ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE RESOLUTION ON ITS MEDITERRANEAN DIMENSION

NOTICE OF INQUIRY

Hon. Jerahmiel S. Grafstein: Honourable senators, notwithstanding rule 57(2) and pursuant to rule 56, I give notice that later this day:

I shall call the attention of the Senate to the following Resolution on the OSCE Mediterranean Dimension, adopted unanimously at the 14th Annual Session of the OSCE Parliamentary Association which took place in Washington on July 5, 2005.

RESOLUTION ON THE OSCE MEDITERRANEAN DIMENSION

- Recognizing that the OSCE maintains special relations with six Mediterranean Partners for Cooperation: Algeria, Egypt, Israel, Jordan, Morocco, and Tunisia,
- 2. Highlighting the increasing attention attributed to the Mediterranean Dimension within the OSCE PA, as reflected in the Parliamentary Conference on the Mediterranean held in Madrid, October 2002, the First Forum on the Mediterranean held in Rome, September 2003, the Second Forum on the Mediterranean held in Rhodes, September 2004, and the Third Forum on the Mediterranean scheduled for Sveti Stefan, October 2005.
- 3. Recalling that the Helsinki Final Act states that "security in Europe is to be considered in the broader context of world security and is closely linked with security in the Mediterranean as a whole, and that accordingly the process of improving security should not be confined to Europe but should extend to other parts of the world, in particular to the Mediterranean area."
- Recalling the importance of tolerance and non discrimination underscored by the participants in the OSCE Seminar on addressing threats to security in the Twenty-first Century, held in November 2004 in Sharm El Sheik,

- 5. Recognizing the importance of the combat against intolerance and discrimination as an important component in the dialogue between the OSCE and its Mediterranean Partners,
- 6. Emphasizing the importance of trade and economic relations as a pacifying factor within the Mediterranean region, as reflected in the Edinburgh Resolution on Economic Cooperation in the OSCE Mediterranean Dimension,
- 7. Emphasizing the importance of mutually shared transparency and trust as principles governing the relations between the OSCE and the Mediterranean Partners,
- 8. Emphasizing that unresolved conflicts constitute permanent security threats in the region, which hamper prospects for sustained peace and prosperity,
- 9. Pointing to the need to achieve a just and lasting peace for the conflict between Palestine and Israel,

The OSCE Parliamentary Assembly:

- Stresses the importance of the cooperation between the OSCE participating states and the Mediterranean Partners for Cooperation to address the current global threats to security;
- 11. Encourages the OSCE participating states and the Mediterranean Partners for Cooperation to promote the principles of non-violence, tolerance, mutual understanding and respect for cultural diversity;
- Stresses that the OSCE participating states and the Mediterranean Partners for Cooperation initiate an active dialogue on the growing challenge of migration;
- 13. Recommends the OSCE contribute to a more positive perception of migration flows by supporting the integration of immigrants in countries of destination;
- 14. Welcomes the appointment of the three Chairman Personal Representatives on Intolerance and Discrimination against Christians and Members of Other Religions, on Combating anti-Semitism, and on Combating Intolerance and Discrimination against Muslims;
- 15. Encourages the resolution of conflicts in the Mediterranean using cooperative strategies when practicable;
- 16. Urges all OSCE participating states to cooperate with the Mediterranean Partners on dealing with both "soft" threats to security, such as poverty, disease and environmental degradation as well as "hard" threats such as terrorism and weapons of mass destruction;
- 17. Calls upon the OSCE participating Sates and the Mediterranean Partners to promote the knowledge of different cultures and religions as a prerequisite for successful cooperation;

- 18. Calls upon the OSCE participating states and the Mediterranean Partners to use education as a vehicle to create tolerance in the next generation;
- 19. Welcomes the creation in 2005 of a free trade area between Egypt, Jordan, Tunisia and Morocco, and the extension of free trade between such countries and the European Union by 2010, as established in the 2004 Agadir Accord;
- Welcomes the creation of qualifying industrial zones between Israel, Jordan and Egypt as a model for promoting peace and development in the greater Middle East;
- 21. Calls upon the OSCE to grant the Palestinian National Authority Observer status, following its request in November 2004 to be made a Mediterranean Partner for Cooperation, in order to enable it to become familiar with the OSCE and assimilate its commitments;
- 22 Urges the Mediterranean Partners to work with the Arab League to rescind the trade boycott of the state of Israel, as the Mediterranean Partners begin their accession negotiations with the World Trade Organization (WTO);
- 23. Recommends further participation by parliamentarians from the Mediterranean Partners for Cooperation in the election observation activities of the OSCE PA;
- 24. Recommends that the OSCE develops relations with other states in the Mediterranean basin, including Libya and Lebanon;
- 25. Encourages the active participation by parliamentarians from both the OSCE participating states and the Mediterranean Partners in the Third OSCE Parliamentary Assembly Forum on the Mediterranean scheduled in Sveti Stefan, Serbia and Montenegro, in October 2005.

SAME-SEX MARRIAGE

PRESENTATION OF PETITION

Hon. Gerry St. Germain: Honourable senators, I have two bundles of petitions with the original signatures of 4,078 citizens, which was presented to me this morning for tabling today. The petitioners express their concern with the same-sex marriage legislation. These petitions come to us from the Greater Toronto Area. Even though Bill C-38 was adopted last evening, the petitioners requested that these petitions be tabled with the Senate.

This petition to the Senate of Canada expresses the petitioners' strong opposition to Bill C-38, which they believe will change the traditional definition of marriage. The petitioners insisted that there be a full debate.

[Translation]

QUESTION PERIOD

DELAYED ANSWER TO ORAL QUESTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of tabling a delayed response to an oral question raised in the Senate by Senator Keon on June 28, 2005, concerning the debates on the public and private delivery of services proposed by the Canadian Medical Association.

HEALTH

PRIVATE AND PUBLIC DELIVERY OF SERVICES— PROPOSED DEBATE BY CANADIAN MEDICAL ASSOCIATION

(Response to question raised by Hon. Wilbert J. Keon on June 28, 2005)

The Honourable Senator Keon had inquired why the Minister of Health believes that it is 'wrong' for the Canadian Medical Association to discuss the issue of private care at its own conference, in light of the Supreme Court of Canada decision in the Chaoulli and Zeliotis v. A.G. Quebec and A.G. Canada case, which was decided on June 9, 2005. The Supreme Court of Canada's decision is an important decision.

The Government supports a strong publicly funded health care system. As the legislation at issue in this case is provincial in nature, the Supreme Court of Canada decision does not have any immediate impact on the federal health insurance legislation, the Canada Health Act. This Act remains valid federal legislation. The Court's ruling does not affect the Government of Canada's unwavering commitment to a universal, publicly funded health care system, one where Canadians have reasonable access to health care services on the basis of need, not the ability to pay.

The Supreme Court of Canada decision highlights the need to accelerate the work that needs to be done on wait times and reaffirms the urgency of following through on the commitments made by all First Ministers in September 2004 in the Ten-Year Plan to Strengthen Health Care. This Plan includes additional federal government investment in health care of \$41 billion over the next 10 years. Included in this investment is \$5.5 billion over ten years, beginning in 2004-05, for the Wait Times Reduction Fund which will augment existing provincial and territorial investments and assist jurisdictions in their diverse initiatives to reduce wait times.

As mentioned, there is already a large component of private care in Canada, for example, physicians remain, for the most part, independent providers almost entirely paid for by the public sector, but with significant freedom in the way they organize their practices. The Canada Health Act requires that all medically necessary insured health services be covered by provincial and territorial health insurance

plans. The Canada Health Act applies to insured health services whether they are delivered in public or private hospital facilities.

The Canada Health Act requires that medically necessary physician and hospital services be covered by provincial/territorial publicly funded health insurance plans. Access to insured services on the basis of medical need and not the ability to pay has always been the cornerstone of Canada's health care system. That being said, provinces and territories have the primary responsibility for the organization of health care. Provinces and territories determine what physician and hospital services are medically necessary and therefore insured under their health care insurance plan, in consultation with health professionals. As long as such decisions are made in a manner that is consistent with the requirements of the comprehensiveness criterion of the Canada Health Act, this raises no concerns from a federal perspective.

[Later]

[English]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to draw your attention to the presence in the gallery of Richard Logan, our former mace bearer, and also some guests of Senator Dyck: Dr. Betsy McGregor, of Industry Canada, Life Sciences Branch, with three summer students — Lisa Huang, Laura Gover and Sara Moores.

On behalf of all honourable senators, welcome to the Senate of Canada.

ORDERS OF THE DAY

DEPARTMENT OF HUMAN RESOURCES AND SKILLS DEVELOPMENT BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Losier-Cool, for the third reading of Bill C-23, to establish the Department of Human Resources and Skills Development and to amend and repeal certain related Acts.

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

DEPARTMENT OF SOCIAL DEVELOPMENT BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Losier-Cool, for the third reading of Bill C-22, to establish the Department of Social Development and to amend and repeal certain related Acts.

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Ouestion!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

BILL TO AUTHORIZE MINISTER OF FINANCE TO MAKE CERTAIN PAYMENTS

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Eggleton, P.C., seconded by the Honourable Senator Jaffer, for the third reading of Bill C-48, to authorize the Minister of Finance to make certain payments.

Hon. David Tkachuk: Honourable senators, the Senate committee hearings on Bill C-48 were held over a period of one day, symbolizing the government's disdain for Parliament, starkly revealed in a budget bill so aptly described by Senator Murray as an abomination and another blow to parliamentary control of the public purse. Furthermore, it was defended at committee by the parliamentary secretary rather than by the minister responsible.

• (1400)

I am sorry to say that Mr. Goodale from Saskatchewan was that minister; a man who has run for office in our province innumerable times, only to be absent for a bill that belittles the very parliamentary office he so often sought. In our province Mr. Diefenbaker taught us to have reverence for Parliament and all its traditions. Mr. Goodale was obviously not mindful.

It was ironic that it was senators, all parliamentarians and a parliamentary secretary from the House of Commons who sat at a committee table passing a bill that devastates Parliament's ability to do its primary job, which is to protect the public purse, dangerously delegating its responsibilities to an executive that has so little respect for the institution that it did not send a representative.

As time passes and the precedent of what we did takes hold, it will be the names of the senators who supported this incursion on the public purse that history will record as being responsible for the demeaning of the public process of budget making and the spending of people's money.

A further irony was added to that day when it was a bureaucrat, not a parliamentarian but former Deputy Minister of Finance Stanley Hartt, who came to the defence of Parliament and their obligations. Here is some of what Mr. Hartt had to say in his remarks to the committee:

...senators should be alarmed at the precedent that Bill C-48 sets for the manner in which legislators are invited to use or, in this case, I think, fail to use the traditional power of Parliament to control public spending. These powers were hard won. We did not shed any blood in this country over them, but our forbears in Britain, whose parliamentary system we inherited, did. The supremacy of Parliament on spending matters is a very valuable tradition that we should not be so casual about.

It was the defence of this act that was truly remarkable. Senator Eggleton, the sponsor of this bill, used the argument in committee that "the Conservatives made me do it," because we had said that we would not cause an election over the budget presented. Later, when we called for an election, that is what caused the government to provoke this gluttonous spending and this unseemly bill. "It was self-preservation," he said, although not using these words, but the intent was clear. "Since you are not our friends, we had to go out and buy new ones with the taxpayers' money," best paraphrases the government's intentions.

He forgets to add that Mr. Harper and the members of our party, on hearing the testimony and confessions of thieves, fraudsters and corrupted Liberal Party officials at the Gomery inquiry believed, and we still do, that the Liberal Party has lost the moral right to govern.

While I am on the subject of Senator Eggleton's version of events, let me turn to what he said on affordable housing yesterday, where he implied that I gave a false version of testimony by Minister Fontana. Since Senator Eggleton is a proponent of full citations of testimony, he will be pleased to hear what I have to say. In talking about me, he said:

He quoted the minister, the Honourable Joe Fontana, as saying that originally our government committed to spending \$1.5 billion over five years, which was reiterated by Minister Goodale following the tabling of Budget 2005.

Remember, he is quoting me. Then he said:

Senator Tkachuk said that there was \$1.5 billion allocated in the budget over five years. They took that \$1.5 billion, made it \$1.6 billion and said that, instead of spending it over five years, they would spend it over two years.

Well, that may be what I have said, but it is also what Mr. Fontana said. He said:

C-48 has now accelerated that commitment to two years.

He was speaking of the \$1.5 billion.

Further, Senator Eggleton advised me to go out and read the later testimony of Mr. Fontana, so I did. I wondered in committee, when we brought this up, why the Liberals did not

read the full testimony into the record at committee. I was waiting for them to do it because we were accusing them of this in committee. I will quote from that testimony, beginning with the section that Senator Eggleton urged me to read but which he quoted selectively. Mr. Fontana said:

About a year and a half ago, we said in our platform, "...assisted housing by providing a further \$1 billion to \$1.5 billion over the next five years. The speech from the throne committed to renewing existing programs such as affordable housing, residential rehabilitation, and support of communities.

In the budget speech, we did say: Accordingly, when our Municipal and Rural, and Strategic and Border infrastructure programs are due to expire in the normal course over the next several years, it is our clear intention to renew and extend them into the future. The same is true for our housing initiatives.

The day after the budget —

— and I am still quoting Mr. Fontana, Senator Eggleton will be pleased to know —

— the Minister of Finance indicated that as soon as we get that initial amount spent, in the future we will invest an additional \$1.5 billion in housing issues in the country.

That is what he said the day after the budget, before the deal was made with the NDP.

He goes on to say:

I think it's consistent with our commitments from the budget speech as well as our throne speech.

Senator Eggleton: Still not in the budget.

Senator Tkachuk: Keep in mind that the Minister of Finance was sitting next to Mr. Fontana and did not interject to correct him, so I will put my version of events up against Senator Eggleton's any time.

Senator Eggleton: You lose.

Senator Tkachuk: For now, let Canadians decide who is right. As for me, the only thing to conclude from this is that either the money was in the budget, in which case the NDP gained nothing, the money was going to be in the budget, in which case the NDP again gained nothing, or the money was being promised but was never going to be delivered, just like Bill C-48, in which case the NDP was lied to but they know that now.

Honourable senators, allow me to get a few more facts straight on what Senator Eggleton said in his remarks last night when he suggested that there was no greater detail in Bill C-43 than in Bill C-48.

Let us start with \$1 billion for an innovative clean fund to stimulate cost-effective action to reduce greenhouse gas emissions in Canada. Exactly where in Bill C-43 will we find an appropriation for the billion-dollar sum? Actually, we will not. It is not in this bill. Bill C-43 sets out the legislative framework for the Canadian Emissions Reductions Incentive Agency — now there is a handle for you — which is being set up as a departmental Crown corporation to run the clean fund. Bill C-43 does not simply say the government may set or buy a corporation for purposes of the clean fund, quite the contrary. In Part 13 of Bill C-43, the Senate was provided with a detailed text creating a separate statute to administer the agency, complete with a definition, the object of the corporation, the corporate governance structure, a listing of the powers of the agency, a requirement to table a corporate plan and an annual report in Parliament, the designation of the Auditor General as the auditor and a listing of the agency in the Access to Information Act.

What do we get for the corporations to be created by Bill C-48? Absolutely nothing, other than a clause that says the government may create one. There are certain one-time payments to specific organizations in Bill C-43, but here we are told who the recipients were. Bill C-48 gives us no information on the ultimate recipients of this \$4.5 billion, nor does it spell out any terms and conditions for payment or set out any rules governing the new corporations to be established.

Before I was distracted by what Senator Eggleton said, I was talking about the government's moral right to govern.

• (1410)

For three days in the spring, the government lost control of Parliament. It had a duty to resign and go to the people. It did not do so. It behaved in the same way that party officials confessed to behaving at the Gomery inquiry. It bought a member by bribing her with a cabinet post, tried to bribe another member, and the result is that it is now a Liberal cabinet minister and the Prime Minister's chief of staff who are being investigated by the RCMP.

They then bribed another political party in the House of Commons. While Liberals may say that Bill C-48 reflects their priorities, that rings hollow, for their priorities were reflected in their budget. These are the priorities of the NDP.

Listening to the tapes that Mr. Grewal presented, one cringes at the absence of any shred of moral relevance as criminal acts are discussed with sly references, a kind of verbal wink, more akin to bad guys in movies talking on the telephone and attempting to hide their base motives for fear of telephone taps — that from a cabinet minister and the Chief of Staff to the Prime Minister.

Compare the words of Stanley Hartt, former Chief of Staff to then Prime Minister Brian Mulroney, in committee on Bill C-48 and Bill C-38 with those of Mr. Murphy discussing how past deals were rewarded.

I wonder whether the Canadian people would have been proud of the discussions that took place in the hotel room between the Liberals and the NDP. The sleaze that oozed out of that room and under the door resulted in \$4.5 billion in spending, with the Liberal attitude to it being best represented by the words of a Liberal senator in committee:

I have not had an opportunity to see the agreement between the NDP and the government. I looked at the bill and cannot help but think that either the NDP is truly naive or the government is truly clever.

With friends like these, honourable senators, there may have only been social intercourse in that room, but many of us out West would have used the vernacular of that adjective to describe what happened to the NDP and to the poor taxpayers of Canada.

There are those in the press who are rather enamoured of the machinations of the Liberal Prime Minister, a kind of beguiling leadership — you can look it up — a crafty Machiavellian, this Mr. Martin. The press thinks this is how politics is done. Not too many weeks ago, those same newspapers were saying that the Liberals had no choice but to resign.

The Liberals then justify their behaviour: "We all do it." It does not matter what party is in power. "This is how we all behave." How dare they? There is no revulsion at their behaviour as long as it serves their self-interest. We on this side of the Senate say it is time that we cleaned up this place, threw those sellers of favours out of town and jailed those crooks, because Canadians deserve better than that; they should be able to expect better of political parties.

Our minority report lays out the classic view of parliamentary governance that we on this side believe in and expect to institute when we win the next election. We talk about the need for transparency and accountability. We talk about the need for Parliament to play a role in holding the government accountable, especially when it comes to the budget bill and taxpayers' money. We talk about democracy.

For some time, Paul Martin has billed himself as the champion of democratic reform. What we failed to appreciate is that when he was talking about reform, he was referring to closing down the system rather than opening it up.

It is true that a person's essential character is sometimes revealed when they face hard times. Bill C-48 is evidence of Mr. Martin's character, a man who deals in expediencies and will go to any lengths to hold on to power, the parliamentary system be damned.

Then again, what harm is there in making a deal if you know you intend to break it? That is what they did to the NDP. It is a double-cross and a breach of the agreement. No, I did not say that; the NDP Finance critic said that last week when she learned, through our hearings, that the \$4.5 billion would not begin to flow until sometime late next year, or maybe 2007 — or not at all if there is no surplus beyond \$2 billion. Perhaps the NDP got what it deserved because, in making this deal, the NDP also showed wilful disregard for its fiduciary responsibility to the people of Canada. The time for lobbying for special interests is before the budget, not after.

Now they are crying foul. NDP Finance critic Judy Wasylycia-Leis is saying things like the more distance the Liberals can put between the NDP budget and the actual expenditure, the more it is to their political advantage, and the more work we have to do to remind Canadians just how this happened.

That is rich. In one breath, the NDP colludes with the government in a budget bill that does an end run around parliamentary oversight, and then in the next breath it seeks to appeal to Canadians to fix the mess into which the NDP has got itself and us, the taxpayers.

It seems that it will be up to the members of the Conservative Party to protect the NDP from itself. It will be up to us because we are the only ones who are protecting Canadians and taxpayers from the Liberal Party and the Liberal government. It is only the Conservative Party. The New Democratic Party gave up on that process when it made this deal with the Liberal Party of Canada and with Paul Martin. Now it is crying that it was lied to, it was misinformed, that it will not get the money. The NDP has to go to the Canadian people and say, "Make sure that you tell them to do what they promised us they would do."

Senator Mercer: How do the polls do?

Senator Tkachuk: Honourable senators, I ask you to oppose this bill.

Hon. Lillian Eva Dyck: Honourable senators, I admit to being somewhat confused over Bill C-48, and I thank Honourable Senator Tkachuk for raising the issue of the NDP involvement in that bill. Looking at the newspapers on the weekend, the headline I saw was, "NDP cries foul over budget deal with Liberals." It reads that the Liberal critic, John McKay, Parliamentary Secretary to Finance Minister Goodale, told the Senate Finance Committee that the \$4.5 billion budget money would not be doled out until the summer of 2006. However, as we all know, and as Senator Tkachuk also pointed out, finance critic Judy Wasylycia-Leis indicated that the NDP in the other place was expecting that the money would materialize sometime this fall.

Senator Eggleton's introduction to third reading also mentioned timing. There seems to be conflicting pieces of information as to when the money will actually start to flow. Certainly, the NDP in the other place was under the impression that an agreement had been struck that the money would start to flow this fall. It makes sense if you look at the bill. Clause (1), subsection (1) talks about the fiscal year 2005-06, which would indicate that that could happen at any moment. If we are not to start spending the money this year, why then do we have a clause dealing with this year? It is a little confusing, and I would like clarification on the timing.

The last time I spoke, I said that Bill C-48 contained items that were "motherhood" issues that we all think of as being important, namely, things such as affordable housing, increased money for training and post-secondary education, and increased foreign aid. In the appendix to the committee report on Bill C-48, they were called "fine sounding objectives."

(1420)

Now the Liberal government is trying to claim credit solely for Bill C-48. In fact, as my honourable colleague Senator Tkachuk has said, perhaps there has been a little bit of a double-cross in that suddenly the money that we thought was going to flow will not flow.

We all know, and certainly I as an academic at a university and a professor know, that ideas are important. They are the engine that drives our society. In an academic circle it is well known that if you have an idea you do not attempt to claim credit for it because if you do and it is not your idea, that is considered intellectual theft. I would not want to claim credit for something that is not mine, and I do not expect the Liberal government to claim credit for something that is not theirs because then they could be accused of, and perhaps found guilty of, intellectual theft.

No idea, no matter how good it is, can stand on its own. We all know, and certainly those in the scientific community know, you could have a brilliant idea, but it will go nowhere unless you have the right people to carry it out, and unless you have the right process for implementation. Honourable senators on this side have talked about the process of implementation. There must be the correct process. You can have a great idea but it will not necessarily work out.

Bill C-48 contains money that will go to very good issues. If that bill is not properly managed, then it will fail.

Let me give you another scenario. Let us say it is so badly carried out by the Liberals that it fails. Then they will have egg all over their face. In that case, will they still claim credit for Bill C-48, or will they say the NDP made them do it?

My question then revolves around the timing. When will this happen? To continue with what Senator Tkachuk was saying as well, perhaps the NDP in the other place would have been wiser had they actually insisted upon a continuing relationship in a minority government, not only to institute Bill C-48, but also to ensure that there was a continuing involvement: to ensure that the bill is properly implemented so that it will lead to success. By a partnership they will have success. If they fight against each other, perhaps the bill will not succeed. They could blame each other and say who was naive and who was not, who was duped and who was double-crossed and so on, but the relationship perhaps would have been better had it continued to make sure the money went to the places in a process the NDP envisioned.

If this issue was part of the Liberal government intentions, then it should have been in the original bills. It was not. They do not seem to have the conviction to carry it out. The NDP in the other place in good faith thought it could be carried out, and perhaps now are left with blind faith, hoping that the Liberal government will manage to carry it out on their own and make it successful.

Hon. Art Eggleton: The honourable senator has raised the matter of whether this agreement stands as it was made. In the preamble to my question, I would indicate that yes, it does. There is no change in the understanding from the understanding that was reached between the government and the New Democratic Party.

The honourable senator is aware, I assume, that the basis of the agreement is to allocate the \$4.5 billion after a \$2 billion surplus has been reached. In fact, we do not know that the surplus has been reached at this point in time. This is unplanned surplus. When it is reached, then the government, the finance minister, is in a position to start considering allocations. The absolute timing of whether there is a \$2 billion surplus is not known until the end of the fiscal year, which is the end of next March. Indeed, the books are not closed and verified as to the surplus position until the following August.

While the Minister of Finance can start the allocation even before, if he is sure about the \$2 billion, it is the \$2 billion threshold that has to be met. The agreement says that it could be done in either one of the two following fiscal years. In effect, the agreement is being adhered to. Is that not so?

Senator Dyck: Honourable senators, part of the communication process here has to do with the timing of the surplus. As I understand it, the NDP in the other place understood that the surplus would be determined by the estimates this fall, not the final estimates. From the briefing notes I have, that is the situation.

Hon. Donald H. Oliver: Honourable senators, I would like to join in the debate on Bill C-48, to authorize the Minister of Finance to make certain payments. As has already been indicated, the intent of the bill is to allow the federal government to spend up to \$4.5 billion in specific purposes over the next two fiscal years. This new spending is to be allocated in four ways, already outlined in this chamber: \$1.6 billion for affordable housing; \$1.5 billion for post-secondary education and training; \$900 million for the environment, including public transit and energy-efficient retrofit; and \$500 million for foreign aid.

Bill C-48 was referred to the Standing Senate Committee on National Finance, which, as you know, I chair. Our committee examined the legislation very carefully and received evidence from a wide range of witnesses, including the Honourable John McKay, parliamentary secretary to the Minister of Finance, and officials from the Department of Finance; Charles-Antoine St-Jean, the Comptroller General of Canada, and his colleague, John Morgan; officials from Human Resources and Skills Development Canada, and representatives from both the C.D. Howe Institute and the Canadian Council of Chief Executives.

Honourable senators will recall that during the debate on second reading I expressed a number of concerns on Bill C-48. On the one hand, I stressed that the bill contains no explanation of the mechanisms for spending. On the other hand, I also pointed out that the proposed legislation offers little provision for adequate parliamentary oversight. Moreover, I indicated that the bill does not provide sound accountability mechanisms. I also expressed the concern that Bill C-48 raises issues related to fiscal responsibility.

I must admit, honourable senators, that one day's set of hearings devoted to Bill C-48 by the National Finance Committee did not calm my fears. Numerous witnesses shared the view that Bill C-48 is highly problematic. There was a lengthy list of

reasons. I would like to quote Stanley Hartt, who eloquently stated:

As a former Deputy Minister of Finance, I find it troublesome to see Parliament commit, for whatever reason, even contingently, significant portions of surpluses yet unearned.... Prudence and Parliamentary practice should dictate that the House and the Senate appropriate moneys when programs have been thought through and developed, when program parameters exist that can be set before the legislators whose control of the public purse is paramount and who are entitled to know what spending they are actually approving, and not merely be required to rely on a list of fine-sounding objectives.

Honourable senators, I will now summarize the concerns raised in the committee hearings on Bill C-48. Witnesses told our committee that Bill C-48 focuses almost exclusively on money and leaves out important details on the nature of expenditure. While the legislation provides the level of funding to be allocated among the four general areas of spending that I have already enumerated, it does not describe a mechanism that spells out how investment will be made in each area. Will it supplement existing measures or will new programs need to be put in place? We do not know from Bill C-48. Which departments, agencies, foundations or other entities will be responsible for administering those funds? Bill C-48 does not provide any answer to these basic and fundamental questions.

• (1430)

Moreover, the bill does not set out what it intends to accomplish. Witnesses before our National Finance Committee insisted on the fact that no objectives or goals are defined and no outcomes are articulated. It will be difficult to assess whether Bill C-48 will result in good value for money. Maybe that is what our Auditor General, Sheila Fraser, will have to investigate. In other words, honourable senators, we are asked to vote on legislation worth \$4.5 billion with no information as to how it is to be delivered, to whom it is to be provided, which department will manage the funds and which specific purpose it is to serve. Parliamentarians are given no information whatsoever to help us make an informed decision. Perhaps more importantly, witnesses indicated that Bill C-48 is disconnected from the usual priority-setting process of budget-making. In this perspective, Finn Poschmann from the C.D. Howe institute stated:

Bill C-48 arrived from outside the budget process so it was completely severed from the trade-offs normally involved in budget making. Budgets are intended to reflect the balance of competing priorities that policy making and politics are supposed to produce. Bill C-48 is a footnote to that process.

Simply put, this bill does not have the kind of details that a budget bill usually has. Normally, when a bill is debated in either House of Parliament, there is more understanding about where the money is going than there is in this case. With Bill C-48, there is no detail about any of the programs. It is left entirely up to the government.

Honourable senators, Bill C-48 is another way in which authority is given by Parliament to the government to appropriate and spend funds. This bill constitutes legislated spending authority. More precisely, clause 1(1) provides that, "the Minister of Finance may, in respect of the fiscal year 2005-06, make payments out of the Consolidated Revenue Fund." That is the authority that provides statutory appropriation with one limitation — the amount, which is determined based on the surplus. The maximum is \$4.5 billion and the individual limits are contained in clause 1(2).

During the hearings, Mr. Peter Devries, from the Department of Finance, told the committee:

Bill C-48 gives the government authorization to make the payments to the entities that have been set up.... The government will not be going back to Parliament for authority to spend that money. Bill C-48 gives the authority to spend that money.

As such, it will allow the Minister of Finance to decide whether to spend the proposed amount of money. In my view, this is almost a blank cheque to the government for spending in four areas that are barely defined at all.

The fact is that the government of the day retains a tremendous amount of discretionary power over how the money is allocated under this bill. The \$4.5 billion is also discretionary as to when it will be spent. It could all be spent in the first year out of surplus, or the second year, or some combination thereof; or it could not be spent at all in the event that there is no surplus beyond the \$2 billion.

Perhaps more importantly, the government also has the authority to propose other spending legislation that would eliminate the room for spending under this bill. If I were the NDP, I would be concerned about that. Bill C-48 is not binding and contains an element of open-endedness. If the surplus is greater than \$2 billion, nothing in this bill would prevent the federal government from spending the money in any way it chooses. There are no formal restrictions in Bill C-48. In other words, honourable senators, the threshold of \$2 billion could be raised. Over and above that, there might be \$1 billion or \$2 billion, but there is nothing in Bill C-48 that says that the additional \$1 billion or \$2 billion over the threshold of \$2 billion must be spent in accordance with the four targeted provisions of this bill.

Honourable senators, there has never been a bill like this one in Parliament. It is an unprecedented assault on parliamentary control of the public purse. What if the government comes back in the fall with another two-page bill asking Parliament to vote, let us say, \$15 billion for six categories of spending? Is that the precedent, and is this the way we want to go in Canada? Stanley Hartt raised this concern when he told the committee:

Senators should be alarmed at the precedent that Bill C-48 sets for the manner in which legislators are invited to use or, in this case, I think, to fail to use, the

traditional power of Parliament to control public spending....The supremacy of Parliament on spending matters is a very valuable tradition that we should not be so casual about.

Charles-Antoine St-Jean, the Comptroller General of Canada, reassured the committee that, prior to payments being made, the terms and conditions will require approval by the Treasury Board. These terms and conditions will detail more specific program parameters along with appropriate levels of audit, evaluation, reporting and accountability provisions. His office will review such proposals prior to their submission to Treasury Board. He also indicated that, subsequent to Treasury Board approval, funding agreements will then be signed with the recipients outlining the terms and conditions for the payments and their dependency on the condition of the fiscal surplus. Mr. St-Jean also stressed that the various estimates documents and the Public Accounts of Canada will highlight the responsible ministers and departments, the recipients and the details on how these funds are intended to be used and, subsequently, how they have been used.

This leads to my concern that parliamentarians will obtain information on the detail of all the spending proposed under Bill C-48 only post facto. As such, we are asked only to rubber stamp the proposed legislation. This is not the way that budgets are supposed to be made. Parliamentary input into the budget-making process has been clearly lacking.

Honourable senators, Bill C-48 is unique in that it is the first time that spending authority would be provided that is subject to there being a minimum fiscal surplus. The money will not exist unless there is a surplus. The spending initiatives will not take place unless there is a surplus of at least \$2 billion. Is this an appropriate way for the government to manage its future spending?

The Comptroller General of Canada told the committee that Bill C-48 represents a "prudent approach to fiscal management" in that such fiscal dividends would be authorized only to the extent that there is a \$2 billion surplus in the next two years. Mr. St-Jean also believes that Bill C-48 provides more lead time to determine the specific management frameworks concerning the programs.

A number of witnesses before our committee did not share his views. One of them even argued that Bill C-48 is somewhat "a mortgage on future surpluses." Other witnesses insisted on the fact that the proposed legislation does not contain any clear measures for government accountability. Through Bill C-48, the federal government seeks authority to spend \$4.5 billion without a plan and without offering Parliament the necessary information as to what the executive can be held accountable for. As Chair of the Standing Senate Committee on National Finance, I am concerned about that.

Another major flaw in the bill is its lack of regard for good governance. David Stewart-Patterson, Executive Vice-President of the Canadian Council for Chief Executives, told the committee the following:

• (1440)

Bill C-48 is a post-dated blank cheque.

I cannot express it any better than that, honourable senators.

Bill C-48 is a post-dated blank cheque. It gives a future cabinet authority to spend all this money in any way it sees fit, including new programs, agreements with other governments, grants and contributions, and even setting up new crown corporations. At a time when Canadians are calling for greater transparency and greater accountability in the use of public funds, this bill shifts more than \$4.5 billion behind closed doors. It will allow the government of the day to make political decisions about where and how to spend this money without the need to come back for further Parliamentary approval. It may not expand the risk of return to financial deficits, but I would argue that it increases rather than decreases the democratic deficit.

Honourable senators, I am also concerned that Bill C-48 may be raising false expectations. It will be for the government to determine the precise allocation of those funds within the limits set out in the bill. There is, however, no obligation to spend the money on those four areas. Because there is nothing mandatory in this bill, this could raise false hopes for potential recipients such as low-income students, people living on social housing, Aboriginal Canadians and so forth. If the money is available but may not be used, does this not raise false hopes? What is prudent about that? If the surplus is not there, some people will be disappointed. Even if there is a surplus, it may not be used for their needs.

A number of witnesses also suggested that the proposed legislation will make it very difficult to continue on a path of debt reduction and tax relief that is so critical to ensuring economic prosperity. Honourable senators are aware that usually any unanticipated surplus at the end of the fiscal year is automatically directed to debt reduction. Over the next two fiscal years, a good part of any surplus may be used to fund the new spending initiatives contained in this bill. The pace of debt reduction might, therefore, be slower than in the past.

Mr. Sam Boutziouvis from the Canadian Council of Chief Executives cautioned that Bill C-48 may limit the federal government's fiscal flexibility. He warned:

...this bill will reduce the government's fiscal flexibility and we need greater flexibility moving ahead. With respect to the debt pay down, we have been highly supportive of the government's fiscal parameters over the past decade.

The Hon. the Speaker: Senator Oliver, I am sorry to interrupt, but your time has expired.

Senator Oliver: Could I ask for another three or four minutes?

Senator Austin: Five minutes.

The Hon. the Speaker: An additional five minutes. Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Oliver: Continuing to quote the official from the Canadian Council of Chief Executives, who says the government might lose its flexibility under Bill C-48:

In fact, we have argued strenuously since 1994-95 that we needed to balance the books. The government's fiscal parameters have been budget balance, contingency of \$3 billion to the debt and, recently, the target of debt to GDP ratio of 25 per cent. These excellent fiscal parameters, in our view, have served the Canadian people well over the past decade. Bill C-48 arguably would affect those fiscal parameters.

In conclusion, honourable senators, Bill C-48, as it is currently drafted, raises numerous concerns related to the lack of accountability and most of all a lack of opportunity for parliamentarians such as us to exercise oversight. It also mitigates long-term planning that is necessary for fiscally responsible government and creates uncertainty with respect to debt and tax reduction.

There are many problems with Bill C-48. In particular, we need to ask ourselves whether this bill sets a dangerous precedent for Canada, as it provides the federal government with the authority and the flexibility to spend, as it sees fit and without parliamentary scrutiny, up to \$4.5 billion in the next two years without requisite transparency or accountability.

The failure of important concepts of transparency and accountability, parliamentary oversight and systemic payment mechanisms must not be allowed to be repeated.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, the most alarming thing about Bill C-48 is that we are asked to vote \$4.5 billion before we are told how the funds are to be spent.

Senator Kinsella: That is innovative.

Senator Stratton: As Mr. Finn Poschmann of the C.D. Howe Institute put it, quite succinctly:

This legislation asks Parliament to pre-authorize contingent spending on a bunch of nice things and a player to be named later.

Senator Munson: That is not bad.

Senator Stratton: I thought so.

The way we are asked to vote spending authority through this bill stands out in stark contrast to the supply process. A clear example of this is the funding for foreign aid, a term that can include significant amounts of military aid. The government is free to spend \$500 million to fight famine in Africa, but it is also free to spend it on military aid to Zimbabwe, where driving people from their homes is the preferred way to cut urban poverty.

Usually spending requests come to Parliament in one of two ways. The first is through a budget bill for which we can turn to the Budget Plan for detailed information. The second is through the estimates, where we are given extensive information before we vote the money.

Honourable senators, most of Canada's foreign aid budget is delivered through the Canadian International Development Agency, or CIDA. The information that we receive from CIDA through the estimates process stands in stark contrast to Bill C-48.

On page 3 of CIDA's Report on Plans and Priorities, there is a signed letter from the Minister of International Cooperation. It tells us that this report to Parliament "outlines our priorities and program of work and the result we expect to achieve." We are not simply told, "\$2.8 billion for foreign aid." Rather, we are given extensive information telling us, for example, that \$1.4 billion is for specific geographic programs in Third World nations and that \$292 million will be for partnerships with international organizations. We are told that CIDA will provide \$65 million in grants to aid former Soviet Bloc countries in their transition, and we can ask how much longer we will be funding this transition. We know that \$2 million will be spent on programming against hunger, and we can then debate whether this is sufficient. We can question the officials as to how they arrived at the levels of expenditure for each program operated by the agency, and we can expect to be given answers.

We are given the reasons for the various programs that operate within the agency and expected outcomes. For example, we are told that the private sector development plan program seeks to strengthen support for rural entrepreneurs, supporting private sector development that contributes to equitable economic growth. We are told that it will spend \$130 million on salaries and \$58 million on professional and special services, so we can question them not only on the size of the payroll but as to why they are hiring so many consultants. In other words, we are given the information that we will need to hold the government accountable.

In this bill, \$500 million for foreign aid is the only information we have. There are no details as to how the funds will be delivered or how the projects or programs are to be funded. We do not know what agreements the government plans to enter into with the new or existing private sector partners or whether the funds will flow through a new and as yet undefined foundation. We do not know how or when Parliament will be informed once the government decides how the money is to be spent, or whether Parliament will even formally be advised in advance as to how the information will flow through press releases to the media, as an example. We have not been given any measurable outcomes.

Indeed, to provide but another example, the money for housing is being promoted as a way to reduce the number of homeless Canadians. The government has not told us how many homeless people will actually be housed by this expenditure. In the interests of accountability, should there not be a measurable outcome attached to the money for housing?

• (1450)

A letter sent by Jack Layton to his supporters on April 27, the day after the original agreement in principle, stated that the deal contained:

...\$1.5 billion to reduce the cost of post secondary education for students and their families via an agreement with the provinces and territories; and better training for workers through the E.I. system.

Is the government planning to deliver the additional funds for training through the EI system? If so, will it impact on the EI break-even premium? We do not know. If not through the EI system, then how will it be delivered? We do not know. If this had been a part of the original fiscal plan, it would have been spelled out in the Report on Plans and Priorities for Human Resources and Skills Development.

Usually when we vote money, we also know which minister is responsible for ensuring that the funds are properly spent, but this is not the case with Bill C-48. Will the foreign aid dollars be under the direction of the Minister of Foreign Affairs, or the Minister of International Cooperation, or the Minister of Defence, or the Minister of Finance, or, for that matter, the Prime Minister, where it could be used to launch the "international sponsorship fund."

Senator LeBreton: Why not?

Senator Stratton: While \$50 million for a plaque in the presidential palace in Nigeria or Bhutan might sound farfetched, if you do not define how the money is to be spent, anything is possible. Will the funding for the environment be under the Minister of the Environment, or the Minister of State for Infrastructure and Communities, or the Minister of Labour and Housing, or some combination of ministers; which is it to be?

Mr. Peter Devries, Director General, Deputy Minister's Office, Department of Finance Canada, told the Standing Senate Committee on National Finance:

These are statutory programs, Mr. Chair, and because of the authority set out in the bill, the programs set out become statutory payments.

Honourable senators, on page 1-30 of this year's Main Estimates, we are told that the statutory authorities are:

Those that Parliament has approved through other legislation that sets out both the purpose of the expenditures and the terms and conditions under which they may be made. Statutory spending is included in the Estimates for information only.

It is hardly reassuring to be told that this is statutory spending and, even then, there is far less legislative guidance than is normal for a statutory item. Old Age Security is statutory. We know in advance who is eligible for what level of benefits. Payments to provinces for equalization and health care are statutory and are paid in accordance to a formula enshrined in law. Employment insurance is statutory. The basic eligibility and benefit rules are set out in law, with limited scope for fine tuning. The Prime Minister cannot, on his own, authorize a doubling of benefits for CSL crew members laid off during the winter shutdown of the St. Lawrence Seaway. He would have to ask Parliament to change the rules.

Honourable senators, we have no guidance and no direction beyond broadly worded categories, such as foreign aid. We will not know in advance how the funds are to be spent unless the government tells us, at their convenience.

Mr. Devries also told the committee that:

These funding arrangements would have to be in place prior to March 31. We have to establish the liability with respect to each of those two fiscal years during the fiscal years in question. We cannot do it after the fact.

In other words, the government will have to know before March 31 who is getting the money. The funding agreements would have to be in place.

Mr. Devries also told the committee that Parliament would be provided with details "in the first Supplementary Estimates of 2006-07, which would be tabled in around November, as per tradition." Allow me to make a few observations about this.

First, the November 2006-07 supplementary estimates will be tabled more than six months after the end of the fiscal year and one to two months after the books have been closed. The money will have been spent. Mr. Devries told us that the government would be issuing cheques in September or October 2006. The same is true if the money were reported through the fall Departmental Performance Reports — the money will have been spent and we may not be given a chance to scrutinize the details in advance.

Second, the supplementary estimates deal only with the current fiscal year and do not provide updated figures for the previous fiscal year. By the nature of this bill, these payments, likely made in the fall, will be, for accounting purposes, last year's money.

Allow me to provide an illustration. The February 2003 budget provided several one-time payments, most of which were to be booked to the outgoing 2002-03 fiscal year and a couple of which were to be booked to the incoming 2003-04 fiscal year. That fall, there were no updates to any statutory programs in the November Supplementary Estimates (A). There is no clear legal requirement that this be done. There was an update when we got to the March 2004 Supplementary Estimates (B) for that year's statutory spending, but not for any spending that was booked to the previous year.

Indeed, we looked carefully to see if the backdated spending from Budget 2003 was reported in this way. The \$600 million to Canada Health Infoway, the \$25 million for the Canadian Health Services Research Foundation, the \$70 million for the Canadian Institute for Health Information and the \$500 million for the Canadian Foundation for Innovation were not in the supplementary estimates. However, the funding that Budget 2003 said would be booked to the incoming 2003-04 fiscal year was included, as the estimates were updating Parliament of the estimated costs in that fiscal year of a statutory item, which would be expected.

All of the money authorized through Bill C-48 is to be backdated when the cheques are cut in the fall. We will be looking with interest to see if Treasury Board changes the format and structure of the supplementary estimates to include statutory items pertaining to a previous year.

As well, honourable senators will note that there is somewhat more precision than in the past when the year-end funds were disposed of. The 2003 budget did not say \$705 million for health but, rather, it outlined the specific amounts to be provided to three specific foundations.

We may have problems with the accountability of these foundations, but at least we know what we were voting on and we know the mandate of those foundations. However, this is all a red herring. Even if we are given this information in the supplementary estimates, it will be after the fact and not before.

The government has held out the prospect that we might receive the information before the fall. Mr. John Morgan, Acting Assistant Comptroller General, told the Finance Committee:

It is not inconceivable that in the 2006-07 Reports on Plans and Priorities for the respective departments they would be able to include what has come about in terms of these negotiations and their respective direction. I believe there would be some opportunity to look at these documents as part of the estimates process. As we indicated earlier, these are statutory disbursements, but they are reported in the estimates and are subject to the scrutiny of Parliament.

Honourable senators may want to keep two things in mind about this. First, with the election promised for next spring, we may not see the Reports on Plans and Priorities until the fall because they cannot be tabled when Parliament is not sitting. The cheques may be cashed by then. Second, the words "not inconceivable" can also mean "not guaranteed" or "remotely possible." It is not inconceivable that I will hit a hole-in-one the next time I golf.

Honourable senators, there would appear to be no operational barriers to Parliament being given this information well in advance of the spending. What we lack is a legal requirement that this be done and a formal mechanism for their review.

• (1500)

The issue is not the Treasury Board's internal checks and balances, even though those same internal controls allowed the sponsorship program to continue for several years until the government was caught. The issue is Parliament's right to scrutinize spending in advance of those funds leaving the Consolidated Revenue Fund.

As Mr. Hartt told the committee:

Senator Eggleton pointed out twice to previous witnesses that Parliament has oversight in the sense that after the fiscal year end, as it is becoming clear whether there is any money and what it might be spent on, they can call people in and ask for explanations. That is a kind of oversight, but it is not the kind of oversight that I traditionally associate with the parliamentary control over the spending power.

In other words, the money is blown; now, we are going to be told...

The Hon. the Speaker: Senator Stratton, I am sorry to interrupt but your 15 minutes have expired.

Senator Stratton: I request a minute.

The Hon. the Speaker: You have five minutes, it appears, Senator Stratton.

Senator Stratton: I will take less.

I will begin that sentence again.

In other words, the money is blown; now we are going to be told, because people are nice and they will show up and sit in this chair, how it was blown.

Honourable senators, before it spends the money, the government should come back to Parliament with information similar to that in the estimates. If the government were willing to do so, this could be done as early as in the spring.

Further, if this kind of advance spending authority with incomplete information is to become the norm — the government senators in committee were making a virtue of this — then let us retain some limited ability to scrutinize the spending before the cheques are cut.

Hon. Lowell Murray: Honourable senators, earlier in the debate, Senator Tkachuk quoted me accurately as having described this bill as an abomination. A few days after I made that remark at the committee, the word, with my name attached to it, leapt out at me from a headline in *The Hill Times*.

I recall the word from my less-than-perfect attendance at scripture class when I was a student at St. Francis Xavier University half a century ago, but I thought since I had resurrected it to such effect that I should go back and confirm its meaning.

I looked in the Oxford Dictionary and the definition of abomination is "thing that causes disgust or hatred"; and then two examples are given. One is "the Pharisees regarded Gentiles as an abomination to God"; and the other is, "a Calvinist abomination of indulgences."

Neither Senator Tkachuk nor I would want to be associated with either of those sentiments, and therefore I may want to find an appropriate synonym when dealing with this bill. As for God, I do not think we should bother him about Bill C-48. He might be inclined to respond that he has heard enough from the Senate this week.

Now, let me say that the bill is an affront to Parliament, and that I am dismayed that such a bill should be before us. It should never have gotten this far. The House of Commons should have turned it back and told the government to do it right.

Let me say to Senator Dyck and Senator Eggleton that the confusion that supposedly exists about the Liberal-NDP agreement, and the sense of betrayal that is so manifestly felt by the New Democrats, could all have been avoided — though not perhaps in the way that Senator Dyck has suggested — by following due process. The government could have brought in a budget bill with the kind of documentary support that is normal for budget bills.

There is no rush about this; that is obvious. The government has not changed its position in the past few days, even under some pressure from the NDP. It is obvious that they will not make up their minds to spend any of this money before the fall of 2006. That is the position of the government; so what was the hurry about bringing in this generality of a bill with no detail as to how the money will be spent?

What is saddest about this to me is that Parliament continues to cooperate in its own marginalization. In the last few years, we have had two retroactive tax bills that were without precedent, and that broke even the government's own guidelines about retroactive tax bills. In one case, the government reneged on a consent to judgment that the Crown had made with some school boards in Quebec, and reversed it. In the second case, a definition in the Income Tax Act was changed retroactive to 1988.

Now we have Bill C-48. Bill C-48, as someone said, is a blank and post-dated cheque. The Department of Finance is running the government. The Department of Finance is running the country and not doing a very good job of it. Who but the Department of Finance was responsible for the bad faith negotiations that took place with the province of New Brunswick in recent weeks? I understand from the media that Senator Kinsella intends to move an amendment to this bill on this subject, and good for him.

I do not believe that the people who went to negotiate with New Brunswick on behalf of the Government of Canada went in with bad faith. I do not believe that the Leader of the Government in the Senate, who expressed a week or so ago his interest in seeing a successful outcome to these negotiations, was dealing with us in bad faith; but what happened?

What happened is that the Department of Finance at a given moment walked in and brought down the hammer and said we will have none of this; it would be a bad precedent to offer any financial assistance to New Brunswick for the rehabilitation of the Point Lepreau nuclear plant. Never mind that for years the Government of Canada has bent itself out of shape trying to flog that technology to all kinds of regimes overseas, some of them dubious. Never mind that the Government of Canada, several generations ago, brought Quebec and Ontario into the nuclear power field on generous terms. Never mind that with New Brunswick itself, when their turn came in 1974-75, they lent us half the money. I say "us" because I was there on the New Brunswick side of the table on those days. All this is for naught, because the Department of Finance at a given point says, no, it will not be done.

When I was growing up and following major league baseball, the New York Yankees were such a powerhouse, winning World Series after World Series, that the cry used to go up every now and then in the sports pages and elsewhere to break up the Yankees, meaning spread the talent around so there would be a more competitive environment in major league baseball.

I have come to the conclusion that is what should happen to the Department of Finance. The Department of Finance should be broken up. It is clear that there is nobody — no agency, no power in the government — to say to them, nay. Privy Council Office seems powerless; the Department of Justice, which normally would restrain them in the use of such things as retroactive law, has become a cipher in recent years. The checks and balances that used to exist in the cabinet system no longer seem to apply.

I am not certain how you would break up the Department of Finance, but there are experts in public administration who could help us with this. I note that the government has appointed Professor Donald Savoie of New Brunswick, Professor Ted Hodgetts, who literally wrote the book on public administration in Canada, Professor Ned Franks and various others to look into changes to the public administration.

I think these people ought to take under consideration the Department of Finance. They have, in my opinion, a malign influence on public policy, and even allowing for the fact that management of public finances has to be a central element in public policy, they have a disproportionate influence on the public policy choices that are put before the government.

(1510)

I think it is time to consider this: Dozens of government reorganizations have taken place in the past 40 or 50 years. There has been an upheaval in the public administration. With a single small exception, that being the creation of the Treasury Board as a separate portfolio in the early 1960s, the Department of Finance is the one department that has never been touched by any of these reorganizations. I think the time has come to revisit the Department of Finance and break it up into manageable, accountable, responsible pieces that will have some responsibility and some sense of how parliamentary democracy should work, which is not present at the moment.

I do not want to impugn individuals in the Department of Finance. There are, as I have indicated, some very talented people in that department. The problem may be that too many of them are located there. From a purely human point of view, it was somewhat reassuring to observe the discomfort of some of the Department of Finance witnesses who appeared before the Standing Senate Committee on National Finance on Bill C-48. If ever I saw witnesses who wished they were elsewhere, it was some of the witnesses from the Department of Finance. The parliamentary secretary could do no more than say that Aboriginal housing was a good thing, the environment was a good thing, and all these other fields were good. He contented himself with that and — hats off to him — he did not venture to give a very reasoned or, indeed, any kind of defence for the process that was involved.

The two officials from the Department of Finance said, as I think Senator Tkachuk, and certainly Senator Stratton referred to, that this is statutory spending like any other. We know what statutory spending is. It is old age pensions, equalization payments and that sort of thing. This is not statutory spending except in the narrowest and most technical legal sense.

The testimony of the other witness, the Comptroller General of Canada, Mr. St-Jean, was referred to earlier by Senator Oliver. His idea was that if one really thought about it, this was somewhat prudent of the government, because now we would know what the government might spend its money on if there is a surplus. However, we have a list of fields and no detail. There is not the kind of documentation that normally accompanies a budget bill.

Speaking of prudence, a witness from the C.D. Howe Institute who appeared before the House of Commons committee did the arithmetic and found that, over the last eight years, the government had racked up \$45 billion in unanticipated revenue — that is, revenues were \$45 billion higher than had been forecast in their budgets — and \$9 billion of unanticipated savings from lower-than-expected interest rates. That comes to \$54 billion, of which \$35 billion went out in unanticipated program spending at the end of the year. There is something wrong with this picture. This is not prudent management of our financial affairs, not by a long shot.

Honourable senators, while "abomination" might have been too apocalyptic and scriptural a description, I think you know how I feel about this bill. It should be sent back. There is plenty of time. It should be sent back and the government should be told to do it right.

I look forward to hearing Senator Kinsella, and I hope I will be able to support the amendment that he proposes with regard to the Point Lepreau nuclear plant in New Brunswick.

Hon. Madeleine Plamondon: Honourable senators, if this bill is adopted and there is an early election, would the new government be bound by the bill?

Senator Murray: Honourable senators, if I were leading the new government, no.

Senator Plamondon: If it is the law, is any new government not bound by it?

Senator Murray: Honourable senators, I was thinking about the way in which the bill was drafted. I have made the point that the Department of Finance could have done so much better in terms of detail, because there are programs to which this money could have been directed.

It is my surmise that they have deliberately drafted this bill in such a way that will give them as much wiggle room as possible. A simple-minded person would think that this \$4.5 billion, if it materializes, will be \$4.5 billion to be spent in addition to existing commitments. However, in the way that they have drafted this bill, they can use that \$4.5 billion to pay for commitments that they have already made. The one thing the Department of Finance is very good at is imaginative and innovative drafting, so

this will happen. Already we are told that an agreement of some kind that was made between the federal government and the Government of Ontario some time ago relating to a number of things will be partly paid for out of this \$4.5 billion, if it materializes.

Could the present government or some succeeding government that would be elected some months hence simply ignore this bill and move on? My answer is, yes, they could.

Hon. Terry M. Mercer: Honourable senators, Senator Murray is talking about breaking the Department of Finance into different components. It is my experience in government that every time government departments are broken up, new departments and bureaucracies are spawned and new ministries are developed. Is Senator Murray proposing larger government?

Senator Murray: Not necessarily, honourable senators. My friend has been witness, as have I, to quite a few of those reorganizations. Some of them, such as the merger of the departments of trade and external affairs in 1983, have been undone some years later. When I first came here, there was a department of citizenship and immigration. In the intervening years, I do not know how many iterations there have been of that. There has been manpower and immigration, employment and immigration, and so on. Within the past year or so, the Department of Citizenship and Immigration has been recreated.

The Department of Finance could be broken up without necessarily expanding the overall federal bureaucracy, and it would be good to have it broken up into several parts with several specialties. We would have a better system of checks and balances within the general area of financial and fiscal policy, rather than one behemoth such as the present Department of Finance is with a disproportionate influence on public policy. I would like to see serious consideration given to that by some of the professors I have named. In any case, perhaps it is something that the Standing Senate Committee on National Finance might like to look into in due course.

Hon. Mira Spivak: Honourable senators, not being quite as iconoclastic as Senator Murray — and I use that word very advisedly, as it means to shatter icons — I will support this bill, but I will do so with grave reservations.

• (1520)

All budget speeches, and all budget bills, are political instruments. This bill, however, is exceptionally so in its origin, a minority government's lifeline; its brevity, approximately 400 words, and its vagueness, both in the conditions it sets down for spending only surpluses in excess of \$2 billion, and its lack of detail on the spending of \$4.5 billion, about which you have heard very eloquently.

The brevity of parliamentary inquiry in terms of this bill is also exceptional: Three committee meetings in a single day in the other place, two meetings in a single day by our own Standing Senate Committee on National Finance. It belies a statement from the first Liberal Red Book *Creating Opportunity*, which says:

Our governmental structure contains elaborate systems to hold Parliament accountable for the management of public monies, but no equivalent scrutiny for Parliament's management of the public environmental trust.

With this bill, those elaborate systems are breaking down, through no fault of the committees that are charged with inquiring into the government's spending plans. They cannot probe details of plans that do not exist. As Senator Kinsella said:

The dearth of detail means that we are being asked to approve discretionary spending in the amount of \$4.5 billion, with only a general idea of the broad areas to which the additional spending is supposed to be devoted.

Rather than a plan, we have a pledge from the government that says, essentially, "If we overtax by \$8.5 billion, we will give \$4.5 billion to worthy causes, the environment, education, affordable housing and foreign aid." There is little doubt that they will overtax. Last year, for example, they initially announced a modest surplus of \$1.9 billion. That swelled to \$14 billion by budget time, and then to \$19 billion, according to the Minister of Finance's own fiscal performance review. I do not know if "overtax" is the right word, but you get my drift.

Of the \$900 million to be spent on the environment, there is little that we know. Here is the little that we know: The bill tells us that the spending will include public transit and energy efficient retrofits for low-income housing. The Minister of the Environment describes it as "the icing on the cake" of Bill C-43, which he suggests is the greenest budget since Confederation. That leaves it to the Minister of State for Infrastructure to claim \$800 million for public transit, and to suggest that it is money that cities and communities across Canada are now counting on, in addition to the money from the gas tax.

In effect, this bill says: If we take too much in taxes, we will give some of it to the provinces so that they can give it to the cities, so that they can decide how to spend it on public transit. Or it may flow directly to the municipalities, as our committee was told—fiscal imbalance writ large.

There is another, better way, as that very first Red Book articulated. It said:

...although Canada promises to fight climate change, federal policies and funding continue to favour private transportation over public transit, and energy use over energy conservation.

The first Red Book solution? Here it is:

A Liberal government will establish a framework in which environmental and economic policy signals point the same way. Our first task will be to conduct a comprehensive baseline study of federal taxes, grants and subsidies in order to identify barriers and disincentives to sound environmental practices.

In the budget plan that laid out the measures in the companion bill, Bill C-43, we now have, 12 years later, A Framework for Evaluation of Environmental Tax Proposals. It was released for discussion purposes and has drawn surprisingly little attention. Perhaps it is not surprising. The government is at least 25 years behind the thinking and actions of governments in many other countries on this issue. It is way behind the thinking of academics and institutions, such as the National Roundtable on the Environment and Economy, a government appointed body. It has long ignored the pleadings of such "special interest groups" as the Federation of Canadian Municipalities, Transport 2000 and the Green Budget Coalition.

Consider one example: For more than a decade, those groups called for a simple change to federal tax policy that would put public transit on an equal footing with cars. It would give employers a tax deduction when they give employees public transit passes, just as employers can now deduct the cost of company cars and trucks and give tax-free parking to employees. A 2001 study by Transport Concepts showed a tax exemption for transit passes would cost the government up to \$12 million in the first year, rising to \$150 million by 2010. The resulting reduction in road repairs, congestion and environmental costs could yield, they said, a net economic benefit of \$188 million annually.

This is just one example of a whole range of economic instruments, some of which were suggested in our Environment Committee report, instruments such as tax shifting, incentives, or the removal of subsidies that the government could have been using and could still use to better the environment. It could also look at rebates, fee-bates, demand-side management and liability instruments — powerful instruments within the grasp of the federal government. Instead, we have a government locked into other policies.

This bill tells us that there is no longer a shortage of money with which to address some of our major environmental problems, but there is an attention deficit and a reluctance to use the tools at the government's disposal. On economic instruments for environmental solutions, the government is the caboose on the freight train of progress.

In any event, the Minister of the Environment has noted that Canada is the sole G8 country, and one of the few OECD countries, that does not have a national policy for urban transit. He might also have noted that the OECD has said that Canada needs to increase the use of economic instruments to reinforce the polluter-pays principle. One can only hope that the framework released in the budget plan is a kick-start in that direction.

The first Liberal Red Book that I cited earlier made another sage observation and implied pledge. I must remind honourable senators that Paul Martin was one of the co-authors. At least, I believe he was.

We want to promote, not hinder, the research, development, and implementation of clean and energy-efficient technologies; renewable energy use; the sustainable management of renewable resources; and the protection of biological diversity.

In essence, science and engineering for the long-term environmental benefit; science and engineering in the public interest. I raise this because, once again, Canada's senior-most scientists are blowing the whistle on our national research strategy that they say rewards those with the strongest business ties, among them John Polanyi, the Nobel Prize winner. Their rebuke of the government's co-funding policy, which requires matching grants from other sources, was published in the prestigious international journal *Science*. They wrote:

By eschewing scientific excellence as the primary consideration, co-funded programs imperil scientific credibility.

What sparked this renewed outcry from 40 scientists working at Canada's top research universities was the most recent national competition for Genome Canada funding. Some 30 of the 120 funding proposals were culled without any review at all. Of the remainder, almost one-third were eliminated by a panel of accountants, "based on ambiguous financial criteria and without any consideration of scientific merit." Perceived financial suitability of the co-funding source appears to be the prime criteria. That is putting it politely.

• (1530)

I have been raising this matter for a long time, since John Polanyi, the University of Toronto Nobel laureate chemist in 1999, expressed the fear that the federal emphasis on commercialization of research could give industry a stranglehold, and David Schindler, Canada's pre-eminent limnologist — a water scientist — told how he and others were locked out of federal research funds by the policy that came into effect in 1997. It meant that scientists could no longer do applied research solely in the public interest.

Many years ago, it was deficit-reduction and the attendant cutbacks in research funding that drove many of our best minds from Canada. As the Budget Plan notes and our top researchers acknowledge, the government has made a substantial investment in recent years to restore those funds. By fiscal year ending 2007, the increased funding for university-based research will reach a nine-year cumulative total of more than \$11 billion. Budget 2005 gives an additional \$810 million this year and for the next five years. How much of that will be allocated to science in the public interest? That is the \$4 billion question.

The first Liberal Red Book of 1993 did get it right on many of the environmental fronts. Ironically, the passages I cited were directly under the heading "Keeping Canada's Promises." With this bill and Bill C-43, the Red Book promises of 12 years ago are still not met.

The stated ends of this bill, namely, additional funds for environment, education, affordable housing and foreign aid, are laudable. Are the ways and means the wisest? I would hope that once officials have devised their plans, they will return to the parliamentary committees for scrutiny. I hope they will not simply give Parliament a post facto view through the supplementary estimates, and I would hope that in formulating these plans, they would keep in mind some of the alternatives that I have mentioned.

Hon. Michael A. Meighen: Honourable senators, I am pleased to join third reading debate on Bill C-48, which, as all honourable senators know, is entitled "An Act to authorize the Minister of Finance to make certain payments." It is better known to most Canadians, of course, as the "NDP budget bill," or the bill that made Jack Layton the real finance minister of this country.

I had originally intended to speak at second reading but hoped that through the committee hearings on the bill most of my concerns would have been addressed. Surprise, surprise, they were not. In fact, after reviewing the committee hearings, I am even more concerned.

Many of the issues have been dealt with very ably, I might say, in the speeches of my colleagues, Senators Tkachuk, Oliver, Stratton and Murray.

I was interested in the remarks of Senator Spivak, as I always am, although I wish she had not removed the suspense. If one had listened to her speech, one would have laid almost any money on the fact that she would have voted vociferously against this bill, but she gave away the secret before launching into her speech. We all knew that notwithstanding her impeccable logic, she would vote for the bill, or so she says, but there is still hope. Perhaps I can change her mind.

[Translation]

This is a rather extraordinary bill because in only two little pages it authorizes expenditures of nearly \$4.5 billion. That works out to an average of \$2.25 billion per page.

The Liberals and the New Democrats from the other chamber unabashedly declared that this was a legitimate bill. Furthermore, the Parliamentary Secretary to the Minister of Finance and the Auditor General of Canada defended this bill before the Standing Senate Committee on National Finance, describing it as an appropriate and predictable way to allocate budgetary surpluses.

At one time — apparently this is no longer the case — a distinction was made between budgets and budget bills and other parliamentary or legislative duties by basing the expenditures on the estimates. At one time, budgets were drawn up in secret and the Minister of Finance resigned if even the tiniest budget detail was leaked.

[English]

Budgets were based on months of financial calculations, arrived at by the gnomes, soon to be divided, in finance, working overtime on their advocacy to determine the financial room available to the government.

New shoes were traditionally acquired by the Minister of Finance to present the budget, and of course, silly me, there was a time when the Minister of Finance was actually consulted or, perhaps, even in the room when a budget was prepared. However, evidence before our Senate committee indicated that the government's witness, the Parliamentary Secretary to the Minister of Finance, was not even consulted until the deal was done.

On all of these fronts, the coalition between the NDP and the Liberals has broken new ground. The myriad budget documents that accompany the presentation of this budget and budget bills were missing because they were non-existent. It is hard in the other place to table the napkin on which the budget was evidently developed. A request was made for it before our committee, but, surprise, surprise, nothing was forthcoming.

Budget secrecy sort of disappeared over time with Mr. Martin's budget trial balloons. Even that was eclipsed here as the details of this budget were negotiated in public by the Leader of the New Democratic Party and by the Prime Minister.

The financial data on which this budget was based is also difficult to discern. In February, when what we will call the "real budget" was presented, we were told that it represented the government's financial priorities, priorities that had been developed with great care, thought and consideration, and that these priorities could not, under any circumstances, be changed. In fact, it was the Minister of Finance himself who stated:

You can't, after the fact, begin to cherry pick: "We'll throw that out and we'll put that in, we'll stir this around and mix it all up again." That's not the way you maintain a coherent fiscal framework.

If you engage in that exercise, it is an absolute, sure formula for the creation of a deficit.

This might lead one to believe that budgets are difficult to change once they are presented. In fact, after presentation of the first budget in February, we on this side asked for military spending to be front-end loaded so that matters of pressing concern could be addressed. We were rebuffed. We were told the budget established spending priorities and no money was left to either change or adjust the government's priorities. That was the government's story when the Minister of Finance was in control. As we know, that control evaporated in the Prime Minister's game of survival. Not to put too fine a point on it, but I guess the finance minister was the first one voted off the NDP-Liberal budgetary island.

Without the involvement of the finance minister, and unburdened by the tried and true traditions and conventions of former budgets, Mr. Layton went to work with the Prime Minister to readjust the priorities of this government to reflect the new priorities of this government, as distorted by the NDP.

All of this exercise produced the rather remarkable piece of legislation that is before us today. It is remarkable on a number of fronts. It is remarkable for the priorities it leaves out: farmers, seniors, forestry workers, fishermen, corporations which create the jobs that drive the economy and Canada's Armed Forces. Of the \$4.5 billion which were magically found, that money could have been used to revamp the funding for Canada's Armed Forces. This is not a bill or a budget that represents the priorities of a broad cross-section of Canadians. The matters put in and the matters left out all signal that a desperate government was prepared to change its own budget and its own priorities, to threaten balanced budgets in the future and to abandon its claim to sound, fiscal management, all for the votes. That is the sole motivating reason.

• (1540)

This bill is remarkable for more than its drafting and priorities. It is truly remarkable for the framework it establishes for future spending. Money will only flow under this budget bill if the surplus remains above \$2 billion. This revelation by the Parliamentary Secretary to the finance minister in our finance committee, as well as his candid comments that the money, if it ever flowed, would not be before the end of the next fiscal year, 2006, seems to have caught our friends in the NDP off guard. All of this, of course, makes for interesting political theatre.

Will the NDP, now realizing how deceived they were, back away from their relentless support of this government, or will their leader decide he has a new set of priorities which he can sell to the Liberals so that both parties can avoid an election? Honourable senators, is this not what Bill C-48 is all about, avoiding judgment by Canadian people? There are no details as to what plans have been developed or will be developed for the disbursement of these funds. All we have are those four vague categories: education, housing, environment and foreign aid.

The best part of all this, or perhaps the worst, depending on your perspective, is that it will be up to cabinet by Order-in-Council to determine the purposes for these payments. Canadians will have no idea of the specific matters on which this money is to be spent until cabinet decides. In other words, there is no budgetary plan. In some instances, money will flow to departments or agencies that the Auditor General has criticized for their ineffectiveness and inefficiency in the delivery of existing programs.

We in the Senate have just presented a detailed and widely applauded report on improving productivity in Canada. Some of the main features of that report are tax cuts and methods to encourage investment in innovation in Canada. There is nothing in this bill that will improve our competitiveness or productivity as a nation. The deal expressly provoked corporate tax cuts which were part of the February budgets and contained in the first draft of Bill C-43. We are told that they will be reintroduced at a later date but, again, who knows for sure? I guess we will have to wait until we have word from the finance minister, whoever that may be at that time.

Honourable senators, this bill establishes dangerous precedents. At our finance committee, Stanley Hartt cautioned the government about committing tomorrow's surpluses to today's priorities. He explained that usually surpluses are allocated to debt or divided equally among the debt, enhancing existing programs and creating new programs. He explained that since Bill C-48 was conceived, we have had a Supreme Court decision dealing with the urgency to address health-care waiting lists in this country. He asked: Should wait times not be a priority for surplus allocation?

Much time was spent in committee by witnesses who explained that Parliament had, through this bill, abdicated its hard-fought control over government spending. There will be no opportunity for Parliament to review programs established under this bill and the resources allocated until after the money is spent. Again Mr. Hartt pointed out:

First, senators should be alarmed at the precedent that Bill C-48 sets for the manner in which legislators are invited to use or, in this case, I think, fail to use, the traditional power of Parliament to control public spending. Those powers were hard-won. We did not shed any blood in this country over this control, but our forbears in Britain, whose parliamentary system we inherited, did. The supremacy of Parliament on spending matters is a very valuable tradition; we should not be casual about this tradition.

I take it from Senator Murray's remarks that he agrees with that sentiment.

I agree that power and authority, which was once the hallmark of parliamentary democracy, should not be so lightly set aside. In addition, honourable senators, this bill gives cabinet the power to establish corporations or foundations into which money from this bill would flow. Then these bodies, far from the light that can be shone on government spending by Parliament, would develop programs, set priorities, and kick the money out the door. This sounds eerily like what happened to initiate the Adscam scandal: money allocation to a small group of unaccountable government supporters deciding on how taxpayers' money should be spent.

Honourable senators, this bill represents the triumph of crass political survival over sound fiscal policy. Imagine a spending authorizing bill that sets no objectives and no goals, except to spend the money. The bill even runs against the government's vaunted expenditure review process designed, so they say, to save taxpayers' money. We really have here \$4.5 billion of pre-authorized contingent spending thrown together in a twopage bill to save the life of the Liberal government. That is what the rush was all about, as Senator Murray well knows. That was the reason for Bill C-48.

[Translation]

Honourable senators, we can all count and we all know that this bill will become law. My only hope, which is shared by all Conservative senators, is that history will not repeat itself the next time Mr. Layton and the Prime Minister sit down together to spend the taxpayers' money.

[English]

Honourable senators, this is not a piece of legislation that deserves our support. The precedents are simply too troubling to ignore. These new practices cannot be encouraged by this chamber and by anybody concerned with the health of our parliamentary system. We should send it back, as Senator Murray suggested, to the other place, for, after all, as he too suggested, there is no great rush. The money will not flow, if it ever does, until the fall of 2006. In the interests of good government in this country, I cannot for the life of me see how this bill could commend support from any honourable senator, and certainly I cannot support it.

Some Hon. Senators: Hear, hear!

An Honourable Senator: Question!

Hon. Gerald J. Comeau: Honourable senators, I did not attend the committee meetings that were held last week. I wish I had, but judging from what I have heard from some of our colleagues today, I get the flavour of what happened at committee. I do not think anything that happened in committee would change our minds.

I was not sure how to approach the bill. I had a chance to listen to Senator Tkachuk's speech at second reading in which he described foreign governments' attempts to promote fiscal accountability in their various countries, and how parliamentarians in these countries could look to other countries for guidance.

Senator Tkachuk referred to the countries that were looking for increased accountability, and they were Pakistan, Africa and Kazakhstan. This led me to reflect on how others might perceive the political culture in Canada regarding the current government's approach to spending, social programs and economic policies.

Those who have travelled abroad on parliamentary delegations will be aware that delegates are usually given a briefing by foreign affairs officials prior to visiting the country of destination. This is to familiarize them with the political, social and fiscal culture of the country to be visited so they do not embarrass themselves when they visit those countries. One can imagine how the foreign experts of Kazakhstan might brief their parliamentarians for a planned visit to Canada. It might go something like this. We can picture the foreign affairs official advising his Kazakhstan parliamentarians. They would be told that the Prime Minister of Canada is a well-known rock star groupie. In fact, he invited the Irish rock star Bono as the main speaker at his installation as party leader to set the tone for Canada's foreign aid policy. This was the installation of the seven Spanish angels. Delegates might consider reading the lyrics of Bono's songs to determine Canada's foreign policy. However, it should be noted that the Liberals cut \$9 billion from the foreign aid budget, bringing our foreign aid spending to levels that have not been seen since 1965.

In spite of Paul Martin's cuts to foreign aid, it should be noted that Bono, the great friend of the Prime Minister, still thinks that Martin has a great butt. I am not making this up. This was in the newspapers, by the way.

In the mid-1990s, the Liberal government made massive cuts to Canada's health care system, resulting in exceptionally long waiting lines. In a recent opinion, the Supreme Court determined that people were suffering and dying due to wait times for medical procedures. As a result, the Supreme Court issued a ruling upholding the right to private medicine.

The Prime Minister's response that there would be no two-tier health care would indicate that he is prepared to disregard the court's ruling on this issue of an individual's right to medical care, but yet has simultaneously been legislating same-sex marriage as a Charter right. As he said, a right is a right and is not subject to cherry picking. On the one hand, he supports fully the right to same-sex marriage, but on the other hand, he does not support the right to having access to proper medical care.

Yes, delegates from Kazakhstan, you have heard me correctly, the Prime Minister decides to cherry pick rights as he sees fit.

• (1550)

On this subject, delegates to Canada should be aware that after the Supreme Court ruling on access to private medical care, the federal Minister of Health told the Canadian Medical Association to but out of the health care debate.

On the national defence front, the Liberal government made massive cuts to the military in the mid-1990s. It is so bad that, recently, soldiers testing their fighting skills in an urban exercise had to rent local commercial paintball equipment because they could not get the proper army gear. Senator Forrestall is aware of this story. It was quite prominent in some of our Atlantic Canadian newspapers.

On the issue of loyalty, the Prime Minister had the predisposition to ignore loyal, long-serving party members in favour of plucking members from the other parties and placing them directly into cabinet. Delegates from Kazakhstan might meet some of them in their trip to Canada. Those would be Stronach, Dosanjh and Brison. It has been said that the ruling party has a welcome mat with lots of nice fluffy fur for newcomers, while long-serving party members stay in the background.

The Prime Minister likes to talk about eliminating the deficit and free votes on issues of principle. However, he recently fired a cabinet minister who voted according to the wishes of his constituents on the issue of same-sex marriage.

Senators who visit Quebec will want to know that the most successful reality television show in the province in the past few months was an inquiry into Liberal corruption, kickbacks and the waste of hundreds of millions of taxpayers' dollars for which no one yet wants to take any responsibility. Senators should also be aware that government lawyers have asked the inquiry commissioner to exonerate the current and former Prime Ministers for any wrongdoing in the scandal.

For those who might want to secure a work visa for Canada, be sure to volunteer for the Minister of Immigration during an election campaign or consider getting a job as a stripper.

On the social front, the federal government is trying to put together a national daycare system. The file is being handled by an old White guy — with apologies to all old White guys in this chamber, which I happen to be — who has no idea what the program will cost. The program will benefit only those who choose to leave their children in the care of government-approved providers. Parents are not considered qualified for the job. Furthermore, there is no provision for rural regions where such schemes are not practical.

The Senate is currently debating a \$4.5 billion budget prepared by the socialist party and a high profile union leader on the back of a hotel napkin. This is a two-page document, a blank cheque which authorizes the cabinet to spend on the environment, training programs and housing for Aboriginals and increased foreign aid spending.

An Hon. Senator: That could be -

Senator Comeau: The great orator from the back row has decided to add his two cents. I hope we will hear his speech later.

Senator Kinsella: That is the new foghorn from Atlantic Canada.

Senator Comeau: Yes, the new foghorn from Atlantic Canada, replacing all the lighthouses that Senator Forrestall wanted to save.

An Hon. Senator: Do you want to do the speech?

Senator Mercer: Not that one!

Senator Comeau: Similar to daycare and the Adscam file in Quebec, the HRDC boondoggle and firearms legislation, there is no plan and no measurable objective, simply a blank cheque. The finance minister's credibility took a direct hit in this back room deal. Senator Tkachuk will be quite aware that this is a man who traded on his integrity and his great province. This gentleman was left out of the budget preparation package, which has probably damaged his reputation for the rest of his career. What an end to a career.

The government measures its performance by the amount of money it spends, yet imagine if it planned and prioritized spending? The Firearm Registry's \$2 billion price tag could well have been measured against other worthwhile initiatives.

Senator LeBreton: Like MRIs.

Senator Comeau: Yes, like MRIs, for example, and programs to combat the root cause of violence or drug abuse, to stop family violence, to stop social housing, to reduce long medical care wait lines, and the list goes on.

Yesterday, I mentioned that the government had laid off one of the finest and most respected fisheries researchers in Newfoundland, Professor George Rose. He is most renowned in Atlantic Canada for his research on the future of the northern cod. He was laid off to save a few bucks. This is the kind of spending priority we see from this government.

I am still giving a briefing to the Kazakhstan parliamentarians, so I should not be going off track like this.

Senator LeBreton: They probably left for home by now.

Senator Comeau: On the environment, the government has rejected targeting smog and real pollutants in favour of buying hot air credits from countries with far worse environmental records than Canada. It is interesting to note the comments of the leading heads of the business community on the issue of Canada's economy. They point to what they refer to as "disturbing signals." To use a phrase that Senator Murray might use, I think it is an

abomination, but perhaps that word is a little too strong. The business community talks about run-away growth in public spending, a tax structure that is biased against investment, a fragmented, costly and overly complex regulatory structure, lagging productivity, a poor record of attracting foreign investment, declining levels of public trust in both government and business, and a need for focused leadership — in political terms, a nation adrift. There is a need to look beyond reactionary policies and short-term thinking.

The current government has benefited from the initiatives of the previous governments on such items as free trade, NAFTA, the GST and deregulation. All the initiatives that they had promised to rip up and do away with, they decided to keep — probably with good results as well. They eliminated the deficit by gutting the military, medicare and by cutting spending on the environment and fisheries. In addition, they are receiving massive revenues from EI premiums and uncompetitive personal income tax rates. It is no wonder that public trust is at an all-time low, and this bill adds to it.

As parliamentarians, we would suggest that the parliamentarians of Kazakhstan might wish to look to Canada's current government as a lesson in how not to govern. Kazakh parliamentarians know that only budgets with plans and priorities that have been properly evaluated and accounted for should be the norm. Thus, I would suggest to the people of Kazakhstan that they might wish to look elsewhere for a model of government accountability.

Some Hon. Senators: Hear, hear!

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I join with other senators in agreeing with what Senator Comeau has just said, and I want to share something with him.

The other day, I was looking at the website of the Government of Canada when I came across a definition of the "federal budget."

The federal budget is a statement of planned revenues and spending for a fiscal year that sets out priorities for government programs.

Clearly, based on what Senator Comeau and others have said thus far, this bill fails to meet the definition of the government on all accounts. First, it deals with unplanned revenues. The definition on the website says that "the federal budget is a statement of planned revenues." Second, the spending it purports to allocate will actually fall within the next fiscal year. Finally, this bill talks about spending that might be allocated. If I were a member of the NDP, I would keep my wish bones intact, my horseshoes well polished and my fingers continually crossed. That spending will clearly not occur in the near future and probably will not occur at all.

• (1600)

Finally, the bill does not set out any priorities for government programs, notwithstanding its enumeration of a few general areas. Indeed, honourable senators, if this excuse for spending legislation is to be accepted, a future budget bill presented by this

government with their allies now might simply replicate the wording contained herein by substituting the amount of \$178 billion and adding to the list of various expenditures.

As has been clearly indicated in the debate so far, the underlying flaw to which the attention of all honourable senators has been drawn is the complete absence of detail in the bill. Simply because it is possible to draft a bill in this manner does not make it proper. How can Parliament fulfil its constitutional role if there is no information on which to make an informed decision?

I like the advice given by Senator Murray, that this chamber should not accept this budget but should send it back and that a proper one should be brought forward, but this chamber unfortunately is not doing the kinds of things that the Fathers of Confederation had intended for it. Some have harkened back to the days before the advent of responsible government, when the nobility of England and Europe imposed taxes on their people more or less as they thought fit, often without a great deal of planning beyond the hope and intention that the funds would more than meet all of the expenses and allow the nobility, and this is almost a tautology, to live like kings. Any surplus money raised could readily be squandered, and often was, because there was no one to gainsay what was being done.

The whole institution of Parliament is supposed to have put a change to that model. A parliamentary system that is predicated on the power of the purse is one that keeps the country free and operating as a parliamentary democracy, but there is a condition to that, and that is that the two chambers of the bicameral Parliament take their jobs and responsibilities seriously. When presented with something like this, as Senator Murray correctly pointed out, we should reject it and send it back so the government can bring something forward that is more in keeping with the government's own definition as to what constitutes a federal budget.

It is the ability of Parliament, it is the ability of this chamber, to demand that proper explanations of proposed expenditures be provided in advance, and to be able to effectively question whether value for money is being obtained. That is the hallmark of accountable government. By failing to provide the kind of detailed information required for effective decision-making, the government is asking us, as a branch of Parliament, to relinquish our role as guardian of the public purse and simply turn that task over to the bureaucracy and the good graces of the government.

This view conforms to the testimony of the Comptroller General of Canada before our National Finance Committee, as has been alluded to in this debate. His concern, of course, was focused almost entirely on whether or not there might be appropriate controls, should Parliament approve the bill, not on whether or not approval itself was appropriate.

It is interesting to note that the June 1, 2004, news release announcing his appointment indicated that one of his functions would be to "review and sign off on policy proposals to ensure that expenditure plans are sound." I doubt that the Comptroller General could sign off on the proposal as it now stands before us at this time. His testimony made it clear that he would be relying on subsequent details as to how the money might be spent and that those plans would receive an appropriate review.

It is not clear why Parliament is being cut out of the process and why we in this chamber and our colleagues in the other place are to be denied an opportunity to assess the proposals before hand rather than ex post facto. Honourable senators will recall the ongoing inquiry of Commissioner Gomery into spending, which theoretically was well considered, properly assessed and appropriately delivered through civil service mechanisms. Are we now to wait to see whether a significant proportion of the proposed spending on affordable housing will be devoted to providing every Liberal and NDP riding president with a new house valued at not less than \$1 million? I think that it is clear that this is not a plan being contemplated by the government, but the dearth of information supplied in relation to the bill leaves the door open. Why would you want to expose yourselves? It leaves the door open to throwing money at almost any project within the scope of government operations. There is no check, and there is no balance.

When an early summer election was in the wind this spring, the government ministers went out in a virtual orgy of spending announcements, leaving the shelves barren. Bill C-48, with its complete absence of controls, direction or planning is perhaps no more than a restocking of the larder to enable ministers to embark on a new series of announcements in January.

Honourable senators, no doubt there are many existing worthwhile projects and programs that could benefit from an infusion of additional money. By way of example, I draw the attention of honourable senators to one particular project in my own province of New Brunswick, namely the refurbishment of the Point Lepreau generating station. Constructed in 1985 with federal assistance, Point Lepreau has one CANDU 6 nuclear reactor capable of generating 635-megawatts of electricity. It currently supplies about 30 per cent of the electricity consumed by the province. The Point Lepreau facility has the first CANDU 6 licensed for operation in Canada. Given relatively stable fuel costs, the plant is able to provide a reliable supply of economical electricity. Refurbishing the reactor will extend the station's life to the year 2032.

Unfortunately, refurbishing a nuclear reactor is very expensive, so much so that it might actually be more economical in the short-term to pay the costs of decommissioning the reactor and building a new power plant that burns either coal or natural gas. Needless to say, taking that option would run counter to the federal government's Kyoto commitment to reduce greenhouse gas production in Canada.

In this context, I note that there were months of hints by various Liberal parliamentarians that the federal government would participate financially in refurbishing the Point Lepreau generating facility. When an election appeared to be in the offing, the Prime Minister was quoted by the Saint John *Telegraph-Journal* as saying, "I do not want to preclude any discussions, but I think there are many options. I think what we have got to do is

to look at what is the right option and then move with it." Apparently the right option for the federal Liberal government is simply to stand aside and leave it entirely to the Province of New Brunswick to bear the full cost.

While energy falls within the jurisdiction of provincial governments, that has not prevented the federal government from exercising its influence in the past. It was just two weeks ago that the federal government announced funding to help build ethanol plants in Alberta, Ontario and Manitoba. There has been federal assistance for the oil sands plants and, of course, there was the initial federal assistance for building the Point Lepreau nuclear reactor in the first place, as alluded to earlier this afternoon by Senator Murray.

• (1610)

Federal assistance appears to be available for energy projects of all kinds across the country. New Brunswick should not accept the lame excuses being proffered. This is a significant issue for the entire province of New Brunswick and has been the subject of ongoing discussions. The fact that the federal government unilaterally decided not to participate, and did not even have the common courtesy to directly inform the provincial government of that decision, is not at issue.

What is important is that this bill allocates a large quantity of money without specifying what programs or projects should be supported. It is clear that the refurbishing of the Point Lepreau Nuclear Generating Station is an important project to New Brunswick, and that doing so will help keep greenhouse gas emissions down, a matter on which the federal government has given a clear commitment.

Although I am sure there are many worthwhile programs and projects that Canadians might also support, rather than leave it to the government and the bureaucracy to make that choice, I propose that Parliament take that decision directly and that an allocation be made for this worthwhile project.

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Leader of the Opposition): Accordingly, I move, seconded by the Honourable Senator Comeau:

That Bill C-48 be not now read a third time but that it be amended in clause 2, by replacing lines 29 to 32 on page 1, with the following:

"(a) an amount not exceeding \$900 million, for the environment, including

(i) a sum of six hundred and fifty million dollars for public transit and for an energy-efficient retrofit program for low-income housing, and

(ii) a sum of two hundred and fifty million dollars for the purpose of providing funding towards the refurbishment of the Point Lepreau nuclear generation station." The Hon. the Speaker: Are there senators who wish to speak to the motion in amendment?

Hon. Jack Austin (Leader of the Government): Honourable senators, I thank senators opposite for their arguments, which are, understandably, based on parliamentary concerns. I would like to address a comment to Senator Murray. In the definition of "abomination," would the honourable senator agree that the defeat of a minority government would be an abomination? I recall, of course, an event in the past with which Senator Murray was associated.

Honourable senators, the government has been clear. In Bill C-48, we are dealing with a parliamentary arrangement between the government and the New Democratic Party. The government presented its budgetary Bill C-43, which passed Parliament. The arrangement with the New Democratic Party was in accord with the federal government's priorities. Senators have heard repeatedly the four priority categories contained in Bill C-48. In his excellent and specific address at second reading and at third reading, as well as his comments on the testimony and questions in the Standing Senate Committee on National Finance, Senator Eggleton covered those topics, so I will not repeat them.

It has to be understood that the political arrangement is in accordance with the government's overall priorities that were set out well before Bill C-48 was tabled in the House of Commons. They were set out in the Speech from the Throne, in specific government programs and in the objectives of Bill C-43.

The New Democratic Party thought that, while the program areas were the correct areas, the government had additional funds that could be invested in these program areas. It asked the government, clearly and specifically, to enhance the spending in those four program areas. Thereby, an agreement was concluded, honourable senators, on terms that the government had laid down for managing the financial affairs of this country. The government has said repeatedly that it is fundamentally committed to not running a deficit again. We have had eight surplus budgets, which, of course, the Conservative Party has never been able to experience, but I will come back to that point later.

Honourable senators, the world admires the management of the Canadian economy. The government is the best economic manager of any G8 country. That is the record of the Liberal government. Today, Canada's economy inspires confidence. Canadians are investing and the government is creating jobs and advancing the interests of individual Canadians.

Bill C-48 will advance those interests but on conditions that have been laid down by the Liberal government. Honourable senators are aware of the key condition: that in fiscal 2005-06 and in fiscal 2006-07, there be a minimum of \$2 billion surplus funds from which payments can be made to the programs contained in Bill C-48. As I said in response to questions from Senator Oliver a few days ago, it cannot be a matter of confusion because the government has made the point repeatedly. Someone who is confused about when the government is prepared to begin spending wants to be confused.

Honourable senators, the New Democratic Party may well want to see funds spent in this fiscal year. It would be to their political advantage if they could claim that certain monies were spent by the Government of Canada because the NDP had arranged it. The Minister of Finance has always had that discretion. However, there is no basis for acting upon that discretion unless it is clear that the economy continue to perform as it has been performing, that the analytical data demonstrate that the surplus will be earned this fiscal year and under no threat of being reversed.

• (1620)

Let me come back to the issue that all of the Conservative senators have dealt with, and that is the question of accountability and transparency. Of course, these are highly desirable public policy objectives.

It has to be understood, honourable senators, and it has not been explained here in the way I would like to now explain it, that it is a new experience for the Conservative Party to try to get its mind around a surplus, and how to deal with a surplus. The old rule was if you had a surplus at the end of a fiscal year, it went fully to pay down debt. You will recall Senator Eggleton mentioning in his contribution that Canada proceeded from a GDP-to-debt ratio of 70 per cent in 1993 down to the low 40s at this time. Our target, as Senator Eggleton has said, is a GDP ratio of 25 per cent.

Senator Stratton: If you did nothing, it would be achieved on its own.

Senator Austin: That is our target. If we mismanage, Senator Stratton, it will start going up again, just in the way that the Conservative Party mismanaged, and made it go up double while Mr. Mulroney was Prime Minister.

Honourable senators, let me come to the point. We must develop new methodology to deal with allocating surpluses that we do not want to use to pay down debt. This bill, as the Comptroller General and the officials of the Department of Finance said, is a bill that moves out and stakes that new ground.

We are not saying that this is a perfect bill. We are not saying that every part of the proposal here is finely shaped and never needs review. What we are saying is that this is a bill for which Parliament will have every opportunity to hold the government to account. There is no question; whether it is pre-account or post-account, Parliament will have its say.

If government does not do what it needs to do and should do, then I am sure that senators on both sides will want to hold the government to account. In the meantime, let us not be panicked by the worst-case worriers from whom we have heard this afternoon who are not used to the kind of economic management that produces surpluses.

I want to turn now to the amendment that is proposed by Senator Kinsella. I have said in this chamber that I am sympathetic to the development of nuclear energy in Canada. I have long been a supporter of the CANDU program, and of nuclear energy as a bridge fuel between the carbon fuels that we are using and the future needs of our energy in Canada.

The Point Lepreau project was an experimental project. As has been said by Senator Murray and Senator Kinsella, the federal government encouraged New Brunswick to build this plant and to operate it. It has now reached the end of its natural operating life and needs to be refurbished.

Honourable senators, discussions have gone on in that context; and at this stage, those discussions are not proceeding to the satisfaction of New Brunswick. I can understand that. All of us can understand that.

Senator Kinsella has said — correctly — that the production of power in the province of New Brunswick and every other province is the responsibility of the province. I cannot imagine, for example, the province of Quebec inviting the federal government into its policy and operating management. We have heard from that side repeatedly to respect the provincial jurisdiction.

Honourable senators, it is an issue that is ongoing and I hope, quite frankly, that there will be an effective resolution by negotiation. However, I have to say that that issue can have nothing to do with this bill. That is an issue that is off the agenda of Bill C-48.

We have here, as I said, an agreement between the Government of Canada, which is represented at the moment, thankfully, by the Liberal Party, and the New Democratic Party. This bill is the result of that agreement and it cannot be varied on the part of the Government of Canada without being seen to break faith with the New Democratic Party. Let us be clear: Any government that breaks its agreement loses its moral authority. That has been said, and it deserves to be repeated.

What I want to do, honourable senators, is to advise you of the view of the New Democratic Party as expressed in a letter sent by Jack Layton, MP, Toronto Danforth, Leader of the New Democratic Party of Canada, to the Prime Minister, under date of June 9, 2005.

Senator Tkachuk: "Thank you, thank you, thank you."

Senator Austin: He said:

Dear Prime Minister,

Media accounts suggest the Federal Government is considering providing \$200 million to the Government of New Brunswick to help finance the \$1.4 billion refurbishment of the Point Lepreau Nuclear Power plant.

I urge you instead to direct all federal money being considered for New Brunswick's energy supply towards energy efficiency and green power development in New Brunswick. This would maximize the job creation potential in New Brunswick, keep energy costs down for New Brunswick and meet Canada's Kyoto obligations. As well, the focus on green power would help northern New Brunswick, which is suffering from 20 per cent unemployment due to, amongst other things, the closing of the fisheries, because Chaleur Bay has huge potential for generating wind energy.

A September 2002 decision by the New Brunswick Board of Commissioners of Public Utilities concluded that "the refurbishment of Point Lepreau, as outlined in the evidence, is not in the public interest" and recommended that New Brunswick Power not proceed with that refurbishment.

An April 2004 report commissioned by the New Brunswick Government noted the refurbishment would cost \$1.4 billion, not the \$935 million first predicted, and would generate 450 person years of work, while maintaining 600 to 700 permanent jobs. Should the federal government invest \$200 million, this would be equivalent to creating 63 person years of refurbishment work to maintain 600 to 700 jobs.

In contrast, the Atlantic Canada Energy Coalition has developed an alternative energy plan that produces the same 640 megawatts of power as Point Lepreau at a cost of \$630 million, or less than half the \$1.4 billion amount needed to refurbish Point Lepreau.

This alternative plan would likely create many more jobs for the people of New Brunswick. For example, the plan calls for developing 220 megawatts of wind energy at a cost of \$375 million. A 2001 Canadian Wind Energy Association report notes that every \$1 million invested in wind energy creates eight full-time equivalent jobs. Installing wind power alone would therefore create 3,000 new jobs, almost seven times as many jobs as the Point Lepreau refurbishment. (This is in line with international studies which show that per dollar invested, wind power creates five times as many jobs as nuclear power.)

The alternative plan also calls for \$140 million to be spent on energy efficiency and fuel switching. The International Council for Local Environmental Initiatives calculates that energy retrofit programs create at least 70 direct and indirect jobs for every \$1 million invested. A very modest \$10 million annual investment would therefore generate another 700 jobs per year, equal to the number of jobs at Point Lepreau. The advantage of energy retrofit jobs is that they are spread across the province in every community.

Not only is the alternative plan a greater job creator and cheaper than refurbishing Point Lepreau, it is by far environmentally superior. As you know, generating nuclear power creates highly radioactive byproducts which are expensive to handle and contain. A recent report by the Nuclear Waste Management Organization, *Choosing A Way Forward*, notes the cost of handling and containment to be at minimum \$24 billion.

• (1630)

In contrast, green power is a completely renewable resource that leaves no radioactive by-product and is therefore effectively pollution free.

I'm sure you will agree that investing \$200 million to create thousands of green jobs spread across all parts of New Brunswick providing energy efficient and green power is much wiser than investing \$200 million to create 63 jobs for a non-renewable power source that produces radioactive waste in just one part of New Brunswick.

And to make sure that this is a win-win for everyone living in New Brunswick, I'm sure you will also agree that a Just Transition fund for any affected energy workers and communities be part of the funding plan.

Green energy makes environmental and economic sense. That's why the Federal NDP has been advocating shifting federal government subsidies away from non-renewable energy sources towards renewable sources.

New Brunswick has incredible potential for energy efficiency and green power. The Atlantic Canada Energy Coalition has suggested how it can be realized.

If the Federal Government is serious about its Kyoto commitments and its commitment to job creation in hard hit areas like northern New Brunswick, then the time to act is now. Ensure all federal dollars go towards green energy and help the Province of New Brunswick move on to a path of sustainability and green job creation.

Regards,

Jack Layton, MP (Toronto—Danforth) Leader, New Democratic Party of Canada

Senator St. Germain: Deep down, you are NDP, too!

Some Hon. Senators: Hear, hear!

Senator Austin: I read the letter so that honourable senators would know the NDP position with respect to the Point Lepreau project. I do not accept that position on behalf of the government. At this time, we are proceeding on a different track with respect to Point Lepreau.

Senator LeBreton: Sounds like a lot of wind to me.

Senator Austin: The key point here is, to repeat the topic sentence: We have an agreement with the NDP, and the NDP will not agree to the refurbishment of Point Lepreau out of the \$4.5 billion. If the refurbishment is to take place, it will take place on another budget item.

Honourable senators, this is a good bill. It advances the targets of the Liberal government. We are happy to be associated with the New Democratic Party in advancing these targets, which Senator Eggleton —

Some Hon. Senators: Hear, hear!

Some Hon. Senators: More, more!

The Hon. the Speaker: Honourable senators, I ask for order. I am having difficulty determining whether it is Senator Austin speaking or another senator. Senator Austin has the floor and I would like to hear him, so I ask for order, please.

Senator Austin: Thank you, Your Honour. I appreciate that you would like to hear me. I know there are some on the other side who would not, but that is their problem.

Honourable senators, Bill C-48 advances the Liberal government's policy objectives in the areas that Senator Eggleton has laid out. We are happy to be associated in these objectives with the New Democratic Party. I urge all honourable senators to recognize that Bill C-48 does advance the public interest very solidly, and we ask senators to support this bill.

Some Hon. Senators: Hear, hear!

Senator Kinsella: Would the Leader of the Government in the Senate kindly table the document signed by Mr. Layton?

Senator Austin: I have read the letter into the record, and I will be happy to table it as well.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Some Hon. Senators: Question!

Hon. John G. Bryden: Honourable senators, I rise to address the amendment of my colleague from New Brunswick. He happens to be the Leader of the Opposition, but he also happens to be a fellow New Brunswicker. Indeed, we both spent a long time in Fredericton.

I will address only the basis on which Senator Kinsella believed he could put forward this amendment. Fundamentally, electrical generation is a provincial responsibility. The Government of New Brunswick and Premier Lord have known for a number of years that the Point Lepreau nuclear plant will have to be decommissioned and shut down soon or refurbished. Either option will cost hundreds of millions of dollars. Many New Brunswickers wonder why the Lord government has waited at least three years to make a decision on the future of Point Lepreau.

During that time, New Brunswick Power, with the approval of Premier Lord, undertook a refit of the Colson Cove thermal plant that burns expensive oil in order to make it possible for that plant to burn a much cheaper ore emulsion fuel to be purchased from Venezuela. The rationale for this refit to burn cheaper Venezuelan fuel was to accrue the savings to undertake the Point Lepreau refurbishment. However, neither NB Power nor the Lord government got a signed contract with Venezuela, and the ore emulsion deal fell through. The botched deal, through continuing higher fuel costs, capital investments and legal fees, has cost the taxpayers of New Brunswick \$1.4 billion; coincidentally, the same amount required to pay for the Point Lepreau refurbishment.

It is interesting to note that the Lord government shut down a legislative committee mandated to review the ore emulsion scandal, and just last month Premier Lord ruled against extending the term of the New Brunswick Auditor General for a few months in order to allow him to complete his findings into the ore emulsion fiasco.

Honourable senators, Premier Lord has put himself in the bind he is publicly claiming to be in today. Due to this inept management, New Brunswickers have seen their power rates increase three times in a little over one year.

It is my understanding that Premier Lord first approached the Government of Canada in January of this year, and the government has had regular discussions in good faith on both sides with the New Brunswick government in an attempt to identify opportunities unique to the Point Lepreau situation that would not create a precedent for every other aging nuclear plant in Canada. Even so, it was not until May that any concrete proposal was put on the table by the Province of New Brunswick.

After giving the request careful consideration, the Government of Canada has concluded that there is nothing unique about the situation at Point Lepreau to set it apart from a number of other nuclear plants. It decided not to set a precedent in this area of provincial jurisdiction that could lead to billions of dollars of call on the federal treasury.

Although it should be mentioned that Atomic Energy of Canada Limited is prepared, within its mandate, to assist NB Power if the decision is made to refurbish Point Lepreau, it should also be mentioned that the Government of Canada is assisting New Brunswick directly through an additional \$326 million in equalization over the next two years and an additional \$73 million this year alone for health care.

• (1640)

The government is also positioned to deliver key investments in child care and gas tax rebates to municipalities. The government is also working with Regional Minister Andy Scott on a project entitled, "People Building New Brunswick, A Human Resource Strategy to Address New Brunswick's Declining Population."

In summary, honourable senators, if the refurbishment makes sense then the Lord government should make that decision and commence negotiations with Atomic Energy of Canada Limited and/or Bruce Power and others. The premier of New Brunswick and his cabinet must assume their responsibility for a secure energy future for our province and they should stop trying to lay the blame somewhere else, anywhere else.

Senator LeBreton: Honourable senators on the other side are also good at it.

Senator Tkachuk: That is what the honourable senator is doing.

Senator Bryden: If the refurbishing of Point Lepreau makes sense, if it is the right thing to do, then responsible government should get on with it.

Some Hon. Senators: Hear, hear!

Some Hon. Senators: Question!

The Hon. the Speaker: No senator rising, I ask honourable senators if they are ready for the question to be put on the amendment to Bill C-48 by Senator Kinsella?

Some Hon. Senators: Question!

The Hon. the Speaker: Those honourable senators in favour of the motion in amendment will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those honourable senators opposed to the motion in amendment will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: Is there an agreement on the bell?

Senator Losier-Cool: Fifteen minutes.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: Order, please. The vote will take place at

Call in the senators.

• (1700)

Motion in amendment negatived on the following division:

YEAS THE HONOURABLE SENATORS

Atkins	Meighen
Cochrane	Murray
Comeau	Nancy Ruth
Cools	Oliver
Di Nino	Prud'homme
Forrestall	St. Germain
Keon	Stratton
Kinsella	Tkachuk—17
LeBreton	

NAYS THE HONOURABLE SENATORS

Adams	Losier-Cool
Austin	Maheu
Bacon	Mahovlich
Baker	Massicotte
Banks	Mercer
Biron	Merchant
Bryden	Milne
Callbeck	Mitchell
Chaput	Moore
Christensen	Munson
Cook	Pearson
Corbin	Peterson
Cordy	Phalen

Dallaire
De Bané
Downe
Dyck
Eggleton
Fairbairn
Fitzpatrick
Furey
Grafstein
Harb
Jaffer
Lapointe

Pitfield Plamondon Poulin Pov Ringuette Rompkey Sibbeston Smith Tardif Trenholme Counsell

Watt-49

ABSTENTIONS THE HONOURABLE SENATORS

Spivak-1

The Hon. the Speaker: We will now resume debate on the main motion.

Some Hon. Senators: Question!

The Hon. the Speaker: The question is being called. I will put the question.

It was moved by the Honourable Senator Eggleton, seconded by the Honourable Senator Jaffer, that this bill be read the third time.

All those in favour of the motion, please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion, please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators. Is there an agreement on the bell? Is it agreed that we vote now?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed on the following division:

YEAS THE HONOURABLE SENATORS

Adams	Maheu
Austin	Mahovlich
Bacon	Massicotte
Baker	Mercer
Banks	Merchant
Biron	Milne
Bryden	Mitchell
Callbeck	Moore
Chaput	Munson
Christensen	Pearson

Cook
Corbin
Cordy
Dallaire
De Bané
Downe
Eggleton
Fairbairn
Fitzpatrick
Furey
Grafstein
Harb
Jaffer

Peterson
Phalen
Pitfield
Plamondon
Poulin
Poy
Prud'homme
Ringuette
Rompkey
Sibbeston
Smith
Spivak

Tardif
Trenholme Counsell

Lapointe Losier-Cool

Watt—50

NAYS THE HONOURABLE SENATORS

Atkins Cochrane Comeau Cools Di Nino Forrestall Keon Kinsella

LeBreton Meighen Murray Nancy Ruth Oliver St. Germain Stratton Tkachuk—16

ABSTENTIONS THE HONOURABLE SENATORS

Dyck-1

MOTION FOR TIME ALLOCATION WITHDRAWN

On Motion No. 1:

That, pursuant to rule 39, not more than a further six hours of debate be allocated for the consideration of the third reading stage of Bill C-48, An Act to authorize the Minister of Finance to make certain payments;

That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the third reading stage of the said Bill; and

That any recorded vote or votes on the said question shall be taken in accordance with rule 39(4).

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I would ask that this motion be withdrawn. It is obviously null and void.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion withdrawn.

PERSONAL WATERCRAFT BILL

THIRD READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Andreychuk, for the third reading of Bill S-12, concerning personal watercraft in navigable waters.—(Honourable Senator Plamondon)

Hon. Mira Spivak: Honourable senators, I move third reading of the bill.

Some Hon. Senators: Question!

The Hon. the Speaker: Senator Plamondon, do you wish to speak?

Hon. Madeleine Plamondon: I do not wish to speak. I wish to say "stand," and I said it before the question. I am asking that the item stand.

The Hon. the Speaker: Senator Spivak or other honourable senators are entitled to request that this motion be adjourned, which makes it subject to a vote. I am not sure whether or not that is the will of the house. Shall this motion stand, honourable senators?

Some Hon. Senators: Stand.

Senator Plamondon: I say "stand"; therefore, no vote is taken. I should like to have time to prepare to speak.

Order stands.

• (1710)

FEDERAL NOMINATIONS BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator LeBreton, for the second reading of Bill S-20, An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.—(Subject-matter referred to the Standing Senate Committee on Legal and Constitutional Affairs on February 2, 2005)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, this item has reached day 15, but it is an item that has been referred to committee but not yet dealt with, but it does have to stand in its place on the Order Paper. I ask that it stand in its place on the Order Paper, and that if we need to, we reset the clock.

Hon. Terry Stratton (Deputy Leader of the Opposition): I think this is the third time for a rewind on this bill. I would ask the chair of Standing Senate Committee on Legal and Constitutional Affairs when she might expect to put this bill to the committee. She does not have to respond to me now, but I would appreciate an answer when we come back.

The Hon. the Speaker: In the meantime, honourable senators, is it agreed that this return to day zero?

Hon. Senators: Agreed.

Order stands.

STUDY ON NATIONAL SECURITY POLICY

REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE ENTITLED BORDERLINE INSECURE—DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the twelfth report of the Standing Senate Committee on National Security and Defence, entitled: *Borderline Insecure*, tabled in the Senate on June 14, 2005.—(*Honourable Senator Rompkey, P.C.*)

Hon. Colin Kenny: Honourable senators, I would like to take this opportunity to briefly respond to certain points raised Monday evening by Senator Maheu regarding the twelfth report of our committee. In her remarks, Senator Maheu stated the following:

I realize the report was tabled on Tuesday, June 19 and only delivered to my office the next day, not looked at and certainly not debated. However, honourable senators know that the results of committee work in either chamber are first tabled and often followed by a comprehensive statement of the contents of a report, and only then does such a report become the subject of a news release or a news conference

Senator Maheu went on to say:

To alter the course of this presumed sequence of events is to be in contempt of Parliament and of the Canadian people. This is clear and beyond debate. Why was the usual and expected procedure not followed? Why was there this haste? Why was there the patent disregard to those of us not on the committee?

Again, I continue to quote Senator Maheu:

To table a committee report suggests future debate. On the contrary, to unveil a committee report outside of the parliamentary context and in an *ex cathedra* fashion might imply that such a report is now beyond the Senate, or already approved by the Senate, perhaps never needing or requiring at all any Senate approval. Such procedure is the very absence of procedure. Clearly, it is a contemptuous act.

That is the end of the quotation of Senator Maheu's remarks.

Honourable senators, I want to assure you that our committee followed the letter and all of the rules and practices in respect of tabling our twelfth report. Our report was tabled on June 14, not June 19, as claimed by Senator Maheu. Marleau and Montpetit on page 884 state: "Committee reports must be presented to the House before they can be released."

The report was not released to the public until after I tabled it in the Senate chamber on the afternoon of June 14. Once it was laid on the table, it became a public document. Requests for copies of the report were made to the journals office that afternoon following its tabling, and they were provided. Copies were also sent to all senators' offices. I myself did not speak to the media until several hours after the tabling when I was called by them with questions about the content of the tabled document, and our press conference was scheduled for the next morning.

Clearly, there was no contempt shown to the Senate and the procedure we followed, which is, indeed, the normal procedure followed by all Senate committees when tabling their reports.

With regard to Senator Maheu's comment, "To table a committee report suggests future debate," I wish to remind the senator of rule 97(3) of the Rules of the Senate, which states:

A report which by its own terms is for the information only of the Senate shall be laid on the Table but may on motion be placed on the *Orders of the Day* for future consideration.

The twelfth report of our committee was tabled in the Senate pursuant to this rule. I was not obliged to ask that it be placed on the Orders of the Day, but given its importance in furthering public policy debate on security matters, I did so, at the time of tabling, and asked the Speaker that it be placed on the Orders of the Day for consideration at the next sitting of the Senate.

Our report, therefore, was clearly unveiled within the parliamentary context and according to our practices and procedures.

With these comments, I wanted to set the record straight concerning the process we followed, and I would now like to move adjournment of the debate, and request the balance of my time be reserved so that I may comment on the substance of the report at a later meeting.

On motion of Senator Kenny, debate adjourned.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

ELEVENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eleventh report of the Senate Committee on Internal Economy, Budgets and Administration, presented earlier this day.

Hon. George J. Furey moved the adoption of the report.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

• (1720)

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Marjory LeBreton, for Senator Andreychuk, pursuant to notice of July 18, 2005, moved:

That, pursuant to rule 95(3)(a), the Standing Senate Committee on Human Rights be authorized to meet on Monday, September 19, 2005, Monday, September 26, 2005 and Monday, October 3, 2005, even though the Senate may then be adjourned for a period exceeding one week.

The Hon. the Speaker: Are you ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, we will now revert to Government Notices of Motions.

Honourable senators, I move that we suspend the sitting to the call of the chair pending Royal Assent.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, before we do that, might I dispose of a ruling that was requested yesterday with respect to the use of lists by the chair? Following that, or a vote on that if one is called for, we would then suspend to the call of the chair and this will be disposed of.

Hon. Senators: Agreed.

POINT OF ORDER

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, yesterday, during debate on third reading of Bill C-38, a point of order was raised by Senator Corbin, who objected to the practice of using lists as a guide for the Speaker to recognize senators who have indicated an interest in participating in debate. The senator made reference to

several rules of the Senate which make it clear what senators must do when they wish to speak in debate. Senator Cools also joined in on the point of order. In her view, the use of lists is "one of those creeping practices in place that have the effect of eroding the individual rights of senators." Following these brief interventions, I suggested that I would look into the matter and report back to the chamber with a ruling.

Having reviewed some parliamentary authorities and considered the merits of the point of order, I should like to explain to the Senate the purpose of using these lists, which are supplied to me by the leadership of both sides, the government and the opposition. There is nothing really new in using such lists. It is part of the established, albeit informal, practice of facilitating the conduct of business. There is also nothing binding about these lists. They serve simply as an aid in help me, as Speaker, to be aware of who in the Senate has expressed an intention to speak in a debate. In practice, these lists are flexible and discretionary. Their purpose is to assist the flow of proceedings without depriving any senator of the right to join in debate.

[Translation]

The use of such lists is not unique to the Senate. Speakers' lists are used elsewhere. At page 505 of Marleau and Montpetit, there is a statement confirming the use of lists in the other place. This recently published authority states that, "Although the Whips of the various parties each provide the Chair with a list of Members wishing to speak, these lists are used as a guide." References in the 23rd edition of Erskine May at pages 428 and 521 make it clear lists are used to assist in the arrangement of debate in both the Lords and the Commons. In fact, in the United Kingdom House of Commons, one acknowledged benefit of the use of lists, in accordance with the practices followed there, is to allow the Speaker "a means of distributing the available time as equitably as possible between the various sections of opinion ..." Honourable senators will be aware that I do this frequently myself with respect to question period, when I advise the house of the number of senators who have indicated a desire to ask a question when only a few minutes remain in the time allotted to this proceeding.

[English]

With respect to an issue raised by Senator Corbin, the use of Speaker's lists is not contrary to the *Rules of the Senate of Canada*, specifically those rules mentioned by the senator that stipulate how a senator is to seek recognition in debate. It must be noted that some senators do not, at times, seem to know where they fall in the order of speaking, and so have not always been recognized if other senators stand to participate in the debate.

Let me repeat, honourable senators: These lists are informal aids that are intended to facilitate the conduct of business. They are not solicited by me as the Speaker. They are provided voluntarily by those responsible for house business and, sometimes, independent senators. These lists are not binding, nor do they in any way limit the right of any senator to participate in debate. That this is so was evident even as we proceeded to debate Bill C-38, following the point of order. I had already mentioned the sequence that I had cited, based on a list given to me, and that was immediately adjusted to accommodate an intervention from another senator.

[Translation]

Whether a parliamentary chamber has 700, 300 or, like ours, just 100 members, speaker's lists are useful. They are neither rigid nor binding, but flexible and discretionary. These lists do nothing to adversely impact the rights or opportunities of any senator to engage in debate.

[English]

If there is any limitation, it may be that the lists emanating from the government and opposition leadership do not take into account the independent senators, of which there are now 11. While the use of the list does not keep the independent senators from speaking in debate, their contribution to the composition of the list might reinforce the idea of balance and completeness. This is a matter, I suggest, that might be reviewed at some point by the Speaker's Advisory Committee.

Whatever is done, I will continue to exercise vigilance in recognizing senators rising in their places, whether or not they have previously indicated their intention to speak. As we saw last evening, senators are often prompted to participate as they become engaged in the exchanges of a healthy and vigorous debate which often occurs in this chamber.

Honourable senators, for the reasons that I have explained, I rule that there is no point of order in this case.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, we are now adjourned to the call of the chair. For what length of time shall we ring the bells? For five minutes? I expect it will be close to six o'clock, honourable senators, before the bells ring. In any event, please listen for the bells. We are now adjourned to the call of the chair and I shall leave the chair until immediately prior to the bells ringing.

The Senate adjourned during pleasure.

[Translation]

The sitting of the Senate was resumed.

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

July 20, 2005

Mr. Speaker,

I have the honour to inform you that The Right Honourable Beverley McLachlin, Chief Justice of the Supreme Court of Canada, signified royal assent by written declaration to the bills listed in the schedule to this letter on the 20th day of July, 2005, at 4:56 p.m.

Yours sincerely,

Barbara Uteck Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Wednesday, July 20, 2005:

An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act (Bill C-2, Chapter 32, 2005)

An Act respecting certain aspects of legal capacity for marriage for civil purposes (*Bill C-38*, *Chapter 33*, 2005)

An Act to establish the Department of Human Resources and Skills Development and to amend and repeal certain related Acts (Bill C-23, Chapter 34, 2005)

An Act to establish the Department of Social Development and to amend and repeal certain related Acts (Bill C-22, Chapter 35, 2005)

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

July 20, 2005

Mr. Speaker,

I have the honour to inform you that The Honourable Morris Fish, Judge of the Supreme Court of Canada, signified royal assent by written declaration to the bill listed in the schedule to this letter on the 20th day of July, 2005, at 5:42 p.m.

Yours sincerely,

Barbara Uteck Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bill Assented to Wednesday, July 20, 2005:

An Act to authorize the Minister of Finance to make certain payments (*Bill C-48*, *Chapter 36*, 2005)

[English]

BUSINESS OF THE SENATE

Hon. Jack Austin (Leader of the Government): Honourable senators, I am sure all senators will agree that we should not adjourn without thanking the table officers, the Senate staff and administration, the pages and all those people who make this

chamber work. We thank them both for their services throughout the year but, in particular, in this extended session from June 27.

I wish all of our colleagues a good holiday and a good rest. We will see you on September 27.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I join with the Leader of the Government in the Senate in the sentiments that he has expressed. I am reminded of one of my more favourite inscriptions to be found on the buildings in Rome. In Rome there are all kinds of inscriptions on all kinds of buildings. One says that time be tempered by time. In that sense, we say to the table officers and all those in the Senate who support us in this work that we shall try to temper the times in less tempestuous ways in the future so that your own summer holidays are not so interrupted. We know the sacrifices that have been made. We who sit here as senators are not unmindful of the interruptions in your summer plans this extended session has caused, and we appreciate it.

The Hon. the Speaker: I join with the Leader of the Government in the Senate and the Leader of the Opposition in thanking those who serve us so well here and, in particular, in the circumstances of this summer. Thank you very much.

Hon. Senators: Hear, hear!

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h) I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, September 27, 2005 at 2 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, September 27, 2005, at 2 p.m.

THE SENATE OF CANADA PROGRESS OF LEGISLATION

(indicates the status of a bill by showing the date on which each stage has been completed)

(1st Session, 38th Parliament)

Wednesday, July 20, 2005

(*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)

GOVERNMENT BILLS

	Chap.	25/04	8/05	31/05						
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	3rd	04/12/02	04/12/08	05/04/20	05/06/21		05/06/20	05/07/18	05/07/18	
	Amend	0 observations	0	0	0		0	0	8	
	Report	04/11/25	04/11/25	05/03/07	05/06/16		05/06/16	05/06/29	05/06/23	
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	1st	04/10/19	04/10/28	04/11/02	05/05/12	05/05/16	05/05/19	05/05/19	05/05/31	02/06/07
	Title	A second Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	An Act to implement an agreement, conventions and protocols concluded between Canada and Gabon, Ireland, Armenia, Oman and Azerbaijan for the avoidance of double taxation and the prevention of fiscal evasion	An Act to amend the Statistics Act	An Act to authorize the construction and maintenance of a bridge over the St. Lawrence River and a bridge over the Beauharnois Canal for the purpose of completing Highway 30	An Act to amend the Aeronautics Act and to make consequential amendments to other Acts	An Act to amend the Export and Import of Rough Diamonds Act	An Act to amend the Criminal Code and the Cultural Property Export and Import Act	An Act respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign countries	An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act
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R.A.

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05/06/30 Social Affairs, Science and Technology

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Amend	0 observations	0 observations	0	0 observations	0	0	0	0	0 observations	2	0	0
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Committee	Legal and Constitutional Affairs	Transport and Communications	Transport and Communications	Banking, Trade and Commerce	National Security and Defence	Energy, the Environment and Natural Resources	National Finance	National Finance	Legal and Constitutional Affairs	Social Affairs, Science and Technology	Legal and Constitutional Affairs	Aboriginal Peoples
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Title	An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act	An Act to amend the Canada Shipping Act, the Canada Shipping Act, 2001, the Canada National Marine Conservation Areas Act and the Oceans Act	An Act to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment	An Act to provide financial assistance for post-secondary education savings	An Act to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts	An Act to amend the Department of Canadian Heritage Act and the Parks Canada Agency Act and to make related amendments to other Acts	An Act to amend the Financial Administration Act, the Canada School of Public Service Act and the Official Languages Act	An Act to establish the Economic Development Agency of Canada for the Regions of Quebec	An Act to amend the Criminal Code (mental disorder) and to make consequential amendments to other Acts	An Act to prevent the introduction and spread of communicable diseases	An Act to amend the Criminal Code, the DNA Identification Act and the National Defence Act	An Act to give effect to a land claims and self-government agreement among the Tlicho, the Government of the Northwest Territones and the Government of Canada, to make related amendments to the Mackenzie Valley Resource Management Act and to make consequential amendments to other Acts.
No.	C-2	C-3	24	C-5	9-0	C-7	C-8	6-0	C-10	C-12	C-13	C-14

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An Act to amend the Teand and another Act	An Act to amend the Telefilm Canada Act and another Act	04/12/13	05/02/23	Transport and Communications	05/03/22	0 observations	05/03/23	05/03/23*	14/05
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An Act to establish the Do Development and to a certain related Acts	An Act to establish the Department of Social Development and to amend and repeal certain related Acts	60/90/90	05/06/21	Social Affairs, Science and Technology	05/07/18	0	05/07/20	05/07/20*	35/05
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An Act for granting to H sums of money for the Canada for the finan March 31, 2005 (Approgre04-2005)	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 2, 2004-2005)	04/12/13	04/12/14	1	ł	1	04/12/15	04/12/15	27/04
An Act for granting to H sums of money for the Canada for the finan March 31, 2005 (Approp	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 3, 2004-2005)	04/12/13	04/12/14	1	1	1	04/12/15	04/12/15	28/04
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4.8	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/10/06	Dropped from Order Paper pursuant to Rule 27(3) 05/02/22						
လှ	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	04/10/07	04/10/26	Transport and Communications (withdrawn) 04/10/28 Legal and Constitutional Affairs					
တ္	An Act to amend the Canada Transportation Act (running rights for carriage of grain) (Sen. Banks)	04/10/07							
S-7	An Act to amend the Supreme Court Act (references by Governor in Council) (Sen. Cools)	04/10/07	Dropped from Order Paper pursuant to Rule 27(3) 05/02/22						
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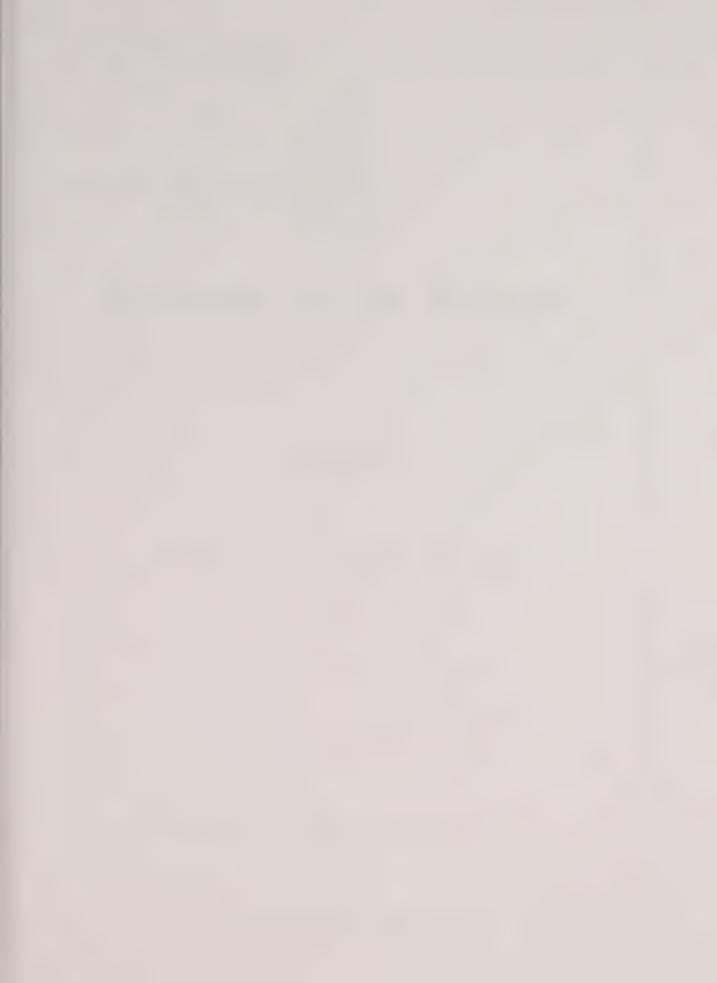
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CANADA

Debates of the Senate

1st SESSION

38th PARLIAMENT

VOLUME 142

NUMBER 86

OFFICIAL REPORT (HANSARD)

Wednesday, September 28, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.

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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193



THE SENATE

Wednesday, September 28, 2005

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

NEW SENATORS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that the Clerk has received certificates from the Registrar General of Canada showing that the following persons, respectively, have been summoned to the Senate:

Andrée Champagne
Larry W. Campbell
Dennis Dawson
Hugh Segal
Rod A. A. Zimmer
Francis Fox
Yoine Goldstein
Sandra Lovelace Nicholas

INTRODUCTION

The Hon. the Speaker having informed the Senate that there were senators without, waiting to be introduced:

The following honourable senators were introduced; presented Her Majesty's writs of summons; took the oath prescribed by law, which was administered by the Clerk; and were seated:

Hon. Andrée Champagne, P.C., of Saint-Hyacinthe, Quebec, introduced between Hon. Noël A. Kinsella and Hon. James F. Kelleher, P.C.;

Hon. Larry W. Campbell, of Vancouver, British Columbia, introduced between Hon. Jack Austin, P.C., and Hon. Ross Fitzpatrick;

Hon. Dennis Dawson, of Sainte Foy, Quebec, introduced between Hon. Jack Austin, P.C., and Hon. Serge Joyal, P.C.;

Hon. Hugh Segal, of Kingston, Ontario, introduced between Hon. Noël A. Kinsella and Hon. Michael A. Meighen;

Hon. Rod A. A. Zimmer, of Winnipeg, Manitoba, introduced between Hon. Jack Austin, P.C., and Hon. Joyce Fairbairn, P.C.;

Hon. Francis Fox, P.C., of Montreal, Quebec, introduced between Hon. Jack Austin, P.C., and Hon. Lucie Pépin;

Hon. Yoine Goldstein, of Montreal, Quebec, introduced between Hon. Jack Austin, P.C., and Hon. Paul J. Massicotte; and

Hon. Sandra Lovelace Nicholas, of Tobique First Nations, New Brunswick, introduced between Hon. Jack Austin, P.C., and Hon. Rose-Marie Losier-Cool.

The Hon. the Speaker informed the Senate that each of the honourable senators named above had made and subscribed the declaration of qualification required by the Constitution Act, 1867, in the presence of the Clerk of the Senate, the Commissioner appointed to receive and witness the said declaration.

• (1450)

Hon. Jack Austin (Leader of the Government): Honourable senators, it is my great pleasure to have introduced, along with Senator Kinsella, the eight senators who have joined us this afternoon. Each has a distinguished career in public service to their communities and is eminently qualified to be here. We look forward to their contribution to public debate and to the wellbeing of Canada. The experience of these eight new senators ranges from eminence in culture, public policy, human rights and Aboriginal affairs, commercial transactions, municipal affairs and other matters that are of importance to this chamber.

On behalf of all honourable senators I make this short statement of welcome. We look forward to working with our new colleagues in the interests of Canada, of Parliament and of our communities.

[Translation]

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, speaking on behalf of the official opposition in this chamber, I join the Leader of the Government in the Senate in welcoming our new colleagues.

[English]

Honourable senators, since 1867 debate has taken place in Canada concerning the selection process for senators. As well, the matters of distribution and tenure have been raised. However, it will require a constitutional amendment to bring fundamental change. That, together with rhetoric about Senate reform and the democratic deficit, has not moved beyond talk. It is important, therefore, that our new colleagues and all honourable senators remain focused on what the Senate does for the public interest as the second chamber in a bicameral Westminster Parliament. Extending welcome to new senators today, we are given this opportunity to rededicate ourselves to excellence in the public policy studies of our Senate committees in the scrutiny of legislation work of the chamber. As mentioned by Senator Austin, the breadth of the skill sets that the new senators bring to the Senate make this parliamentary body that much more capable of meeting its collective responsibility to the people of Canada.

I trust that honourable senators will appreciate my desire to underscore the pleasure that my colleagues and I on the benches of the official opposition have in making room for Senators Champagne and Segal.

[Translation]

Honourable senators, it is both an honour and a privilege for me to welcome Senator Champagne to the Senate of Canada. The Conservative Senate caucus is particularly pleased to see her join its ranks. I am certain that, thanks to her vast experience, Senator Champagne will make a rich and very useful contribution to our august chamber.

[English]

Honourable senators, Senator Segal epitomizes service in public life. His appointment to the Senate of Canada will significantly enhance the public policy discourse in this country. The honourable senator has served in a variety of capacities throughout his career, most recently as President of the Institute for Research on Public Policy in Canada, while also teaching at Queen's University. I look forward to working beside Senator Segal. I know that his talents will be of benefit to this chamber and, ultimately, to the people of Canada.

[Translation]

Honourable senators, I wish Senator Champagne and Senator Segal, and all the new senators, all the best of success in carrying out their new duties.

[English]

Honourable senators, it might be equally understood by all in this chamber that as a senator for the Province of New Brunswick, I wish to extend a special welcome to the newest senator from our province. The sharing of New Brunswick with Senator Sandra Lovelace Nicholas is only one element because, as many know, the human rights struggle for the promotion and protection of human rights for First Nations' women is an area of social justice in which Senator Lovelace Nicholas and I have collaborated for many years. The many Canadians who worked with us in bringing the Lovelace case to the United Nations are proud of the senator's appointment to this house. Today, we think of great women such as Marjorie Perley, Caroline Ennis and others from the Tobique First Nation, of the contributions of other great women such as Mary Two-Axe Early and of human rights academics such as Professor Donald Fleming.

I express my special welcome to Senator Lovelace Nicholas and to all new senators a very warm welcome.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I would simply like to welcome our new colleagues and remind them that we are now 11 independents here in the Senate. We belong to neither the government nor the official opposition. There is room in this place for all opinions and all representations. I am very pleased that the Right Honourable Prime Minister has appointed two senators in order to increase the numbers in the official opposition. This is, I feel, a step in the right direction.

e (1500)

Honourable senators, in less than a month there will be two Ontario vacancies. I very much hope that the Prime Minister of Canada will, as I have said many times before, give some thought to filling those vacancies with two women, because women

senators who have left us have not been replaced. Along the same lines, I very much hope as well that the Prime Minister will also beef up either the opposition or the group of independents when he makes these appointments. I hope that he gives thought to appointing some female senators so that we may one day achieve that magic figure of 53 women and 52 men in order to have a critical mass of women in the Senate to assist in getting more women elected to the House of Commons. I welcome the new senators, most of whom I know, given my age, and with whom I will have the pleasure of working closely.

[Earlier]

[English]

VISITORS IN THE GALLERY

The Hon. The Speaker: I wish to draw to the attention of honourable senators to the presence in the gallery of our former colleague, the Honourable Nathan Nurgitz.

Welcome back to the Senate.

As well, I should like to draw the attention of honourable senators to the presence in the gallery of the participants of the Fall 2005 Parliamentary Officers' Study Program. Participants are here from Prince Edward Island, Georgia, Hong Kong, Jamaica, Korea, Namibia, Nigeria, Northern Ireland, Pakistan, South Africa, Sri Lanka, Tanzania, Thailand, Trinidad and Tobago, and Zambia.

On behalf of all senators, I welcome you to the Senate of Canada.

SENATORS' STATEMENTS

GOVERNORS GENERAL

TRIBUTES TO HER EXCELLENCY MICHAËLLE JEAN AND THE RIGHT HONOURABLE ADRIENNE CLARKSON

Hon. Jack Austin (Leader of the Government): Honourable senators, yesterday in this chamber we celebrated the installation of a new Governor General and Commander-in-Chief of Canada, Her Excellency, the Right Honourable Michaëlle Jean, the twenty-seventh Queen's representative in Canada.

Our newest Governor General was born in Haiti and came to this country with her family in 1968 at the age of 10 seeking a new life of freedom and prosperity. In a nation that has flourished because of the contribution of immigrants from around the world, Madame Jean shares a common history with many Canadians as well as with her predecessor. This commonality promises to be a benchmark of her term as Governor General.

As Madame Jean rightly observed in her maiden speech, today's world demands that we learn to see beyond our differences for the good of all.

The motto on the Governor General's personal coat of arms is "Briser les solitudes" — a phrase that captures the Canada we must strive to become. As steadfast believers in the past accomplishments and future potential of our nation, parliamentarians must join with all Canadians and rededicate ourselves to building a strong and united Canada. We must remain committed to creating policies and fostering new attitudes that bring Canadians together and that emphasize our shared history and humanity.

I hope that senators will join our new Governor General in creating a country in the spirit of this noble and visionary ambition.

Honourable senators, on behalf of all Canadians, I would also like to extend our deepest gratitude to the Right Honourable Adrienne Clarkson for her exceptional service to our country. She did much to define the office of Governor General and, in so doing, to make it both more Canadian and more understood by Canadians.

In carrying out her official duties, Madame Clarkson was unfailingly supported by her husband, John Ralston Saul, an accomplished public figure in his own right, both in Canada and internationally.

From the beginning of her appointment at her installation ceremony, Governor General Clarkson made it known that the people in Canada's most socially and geographically isolated communities must always be an integral part of this country.

She earned the respect of our Canadian Forces as perhaps none before her has, interpreting her role as Commander-in-Chief of Canada not merely as a titular role, but as a significant office that required her genuine support and leadership.

Madame Clarkson reminded Canadians that true honour is reserved not for those who have received but for those who have given. Her encouragement to continue striving to build an exceptional country has inspired Canadians everywhere.

Governor General Clarkson will be remembered for her dedication to informing the world about the creativity, exceptional abilities and human values that Canadians represent. For that audacious accomplishment, we will remain a grateful nation.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I wish to join with the Leader of the Government in the Senate and associate myself with his remarks with reference to the Right Honourable Adrienne Clarkson, the former Governor General, who has served the country with dignity and grace during her tenure.

Honourable senators, the installation of the new Governor General was a special moment in Canadian history. I think that all found yesterday's ceremony held in these chambers to be no exception. On behalf of the official opposition in the Senate of Canada, I wish to extend to Her Excellency, the Right

Honourable Michaëlle Jean, our congratulations and expression of best wishes; and God speed as she undertakes the viceregal responsibilities.

These responsibilities are tremendous, honourable senators, which Canadians, however, confidently expect will be exercised with both conviction and enthusiasm. Canadians in every province and territory are fortunate to have a person of Her Excellency's stature and experience to act as our Governor General.

We are a people built by people of many experiences and we are proud of our diversity. The new Governor General's personal journey, personal history gives her a unique perspective into our society that is sure to inform her term of office.

As our country has grown and evolved, so too have the functions of the Governor General. In addition to her constitutional duties, the Governor General represents Canada's values and beliefs, not only abroad but also here at home. Our Governor General is not only our face to the world but indeed to each other.

As Her Excellency said during the installation ceremony yesterday,

I am determined that the position I occupy as of today will be more than ever a place where citizens' words will be heard, where the values of respect, tolerance, and sharing that are so essential to me and to all Canadians, will prevail.

Honourable senators, Her Excellency represents one of the three integral parts of the Parliament of Canada. As honourable senators are aware, Parliament is composed of the House of Commons, the Senate and the Crown. Indeed, the law in Canada is only valid when it receives the consent of each of these three parts of Parliament.

Yesterday we had the opportunity on behalf of the official opposition in the Senate to thank Her Excellency personally for her thoughtful, generous and gracious speech. Today, I reiterate that appreciation, and offer our continued assistance from these halls.

Hon. Terry M. Mercer: Honourable senators, as Canadians we do not often bear witness to the true meaning of pride in one's country. However, it was most evident yesterday as we witnessed the passing of the torch from one strong, talented, independent woman to another.

The Right Honourable Adrienne Clarkson served this country in its highest office in a way few of us have ever seen from a Governor General. She was highly visible, engaging Canadians in their government, culture and identity.

Over the course of six years, Madame Clarkson and her husband, John Ralston Saul, travelled Canada and the world, recognizing achievements and honouring the Canadian identity. Her most noted role as Commander-in-Chief of the Armed Forces is a testament to the values we all share — pride in one's country and respect for those who help keep it strong and safe.

I offer my congratulations to Madame Clarkson for her role over the past term and congratulate her on a job well done.

Newly installed Governor General, Her Excellency Michaëlle Jean will continue that same service to her country. In yesterday's ceremony, we watched our new Governor General move from tears to laughter as we celebrated her official appointment. With her husband, Jean-Daniel Lafond, and her 6-year-old daughter, Marie-Éden, looking on, Her Excellency told those present, and indeed all Canadians, that the time of two solitudes has passed and that now is the time to focus on promoting national solidarity. I applaud her vision of a strong, united Canada and will work to ensure it is fulfilled.

Honourable senators, as one of the youngest people ever appointed to office of the Governor General, the first Black person and only the third woman, Her Excellency's life story is one that many Canadians of all cultures can relate to. I look forward to witnessing what she will do and offer my sincere congratulations on what will certainly be an appointment we will not soon forget.

• (1510)

CANADA-UNITED STATES RELATIONS

MAINE—PROPOSED LIQUEFIED NATURAL GAS TERMINALS

Hon. Michael A. Meighen: Honourable senators, I wish to call the attention of all honourable senators to a serious issue that has developed in the state of Maine and the province of New Brunswick and that, depending upon how it is dealt with by our government, may have highly negative environmental, social and economic effects on this part of Canada.

By way of background, very quickly, there are now three proposals on the table to develop on the Maine side of the St. Croix River and Passamaquoddy Bay liquefied natural gas, LNG, terminals. Honourable senators, at least one of the proponents of these LNG projects has been subjected to NIMBY, not in my back yard, all the way up the East Coast of the United States before now making a last pitch in the easternmost and arguably poorest part of Maine.

These industrial projects are of enormous size and scope. They require containment storage tanks of some 160,000 cubic metres and piers of well over three-quarters of a mile in length jutting out into the bay to accommodate tankers of up to 150 feet wide and 1,000-feet-plus in length, with a 45-foot draft and needing tug boats on either side. The distance, honourable senators, between the New Brunswick shore and the state of Maine locations at this point is only a little over three miles.

Those in opposition to the proposals, including Premier Bernard Lord, Opposition Leader Shawn Graham in New Brunswick, federal opposition leader Stephen Harper, the area's MP, Greg Thompson, as well as Minister Andy Scott and others, understand that the industrialization of this relatively small expanse of water and shore would have dramatic and irreversibly devastating results.

Passamaquoddy Bay is one of the most unique ecosystems in the world. It is home to the right whale and other endangered species. The impact of heavy tanker traffic with deep drafts, enormous weights and attendant tugs would dominate and forever despoil this pristine area, and its ecology would be forever damaged. The terminals and the tanker traffic are ongoing 24/7, as are the noise and lights to operate them. Although LNG is, in itself, non-toxic, it is a petrochemical and, as such, extremely hazardous when exposed to fire. Security is a major issue.

[Translation]

In Louisiana, 30 industries have apparently located close to the liquified gas terminal in order to take advantage of an affordable and readily accessible energy source. There would be no way of stopping this once the bay was industrialized. The impact on local fisheries and agriculture would be dramatic. These super tankers need half a mile to turn around and a whole mile to stop. Once the super tanker routes are established, local fishers lose their rights to use these waterways. Furthermore, I understand that the oil companies demand a buffer zone for safety reasons, so net fishing, lobster fishing and so forth would no longer be possible in the traditional areas.

[English]

Tourism will cease to exist in this region. Who would come to an industrialized bay when whale watching, sailing, pleasure boating and sea kayaking are no longer enjoyable or even possible. The economy —

The Hon. the Speaker: Senator Meighen, I regret to advise that your three minutes have expired.

[Translation]

THE GOVERNOR GENERAL

TRIBUTE TO HER EXCELLENCY MICHAELLE JEAN

Hon. Claudette Tardif: Honourable senators, I rise today knowing that you will join me in extending our most heartfelt congratulations to the new Governor General, the Right Honourable Michaëlle Jean, on her installation as the 27th Governor General of Canada.

Madame Jean's personal background as well as her many talents and achievements as a teacher, frontline advocate for the less well-off and journalist make her an excellent choice for a position requiring that one represent Canadian society, forge links with all Canadians and build stronger identity and unity across Canada.

[English]

As a woman, I am proud of Her Excellency's nomination to the Governor General's position. She becomes the third woman to occupy the position, after the Right Honourable Jeanne Sauvé and the Right Honourable Adrienne Clarkson. As with these two great women before her, Her Excellency will utilize her numerous talents, realizations and experiences for the greater good of the Canadian people and the Crown.

I believe that Her Excellency, through her years of involvement in social issues, her extraordinary personal story and her talents, will fulfil remarkably well her functions as Her Majesty's representative in Canada and as head of state. She embodies the values Canada holds dearest to its heart: tolerance, equality of chances, cultural diversity and linguistic duality, and the respect of individuals' basic rights and freedoms.

[Translation]

As a French-speaking immigrant woman, she will represent and give a voice to the people of Canada in general, and to those who are vulnerable and marginalized in particular. I believe that she will be able to help strengthen ties between all Canadians and promote a greater sense of pride in our country and our Canadian identity and a greater sense of belonging.

I am sure that, as a francophone, a Quebecer and a Canadian, Madame Jean will provide a voice for francophones across the country as well as for the various groups that have added their voices over the years to that of our founding people.

Honourable senators, I believe that the appointment of Her Excellency reflects the values that all Canadians hold dear and ought to be applauded and supported by all.

[English]

ROUTINE PROCEEDINGS

THE GOVERNOR GENERAL

ADDRESSES AT INSTALLATION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I ask that the address of the Prime Minister of Canada at the installation of the Governor General on September 27 together with the reply of Her Excellency be printed as an appendix to the *Journals of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(For text of addresses, see today's Journals of the Senate, Appendix, p. 1153.)

[Translation]

CHIEF ELECTORAL OFFICER

2004-05 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the annual report of the Chief Electoral Officer of Canada, pursuant to the Privacy Act.

STUDY ON NATIONAL SECURITY POLICY

REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE ENTITLED WOUNDED: CANADA'S MILITARY AND THE LEGACY OF NEGLECT TABLED

Hon. Colin Kenny: Honourable senators, I have the honour to table the 14th report of the Standing Senate Committee on National Security and Defence. I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

On motion of Senator Kenny, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[English]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Jerahmiel S. Grafstein presented Bill S-43, to amend the Criminal Code (suicide bombings).

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Grafstein, bill placed on the Orders of the Day for second reading two days hence.

PUBLIC SERVICE EMPLOYMENT ACT

BILL TO AMEND—FIRST READING

Hon. Pierrette Ringuette presented Bill S-44, to amend the Public Service Employment Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Ringuette, bill placed on the Orders of the Day for second reading two days hence.

THE SENATE

NOTICE OF MOTION TO URGE GOVERNMENT TO ALLEVIATE HIGH FUEL COSTS

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I give notice that on Tuesday next, October 4, 2005, I will move:

That the Senate urge the government to implement assistance through the tax system to ensure that excessive fuel costs are not an impediment for Canadians travelling to and from their place of employment, including a personal travel tax exemption of \$1,000;

That the Senate urge the government to take measures to ensure that rising residential heating costs do not unduly burden low and modest income earners this winter and in winters to come;

That the Senate urge the government to encourage the use of public transit through the introduction of a tax deduction for monthly or annual transit passes; and

That a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.

BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Jerahmiel S. Grafstein: Honourable senators, I give notice that at the next sitting of the Senate I will move:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to sit at 3 p.m. on Wednesday, October 19, 2005, even though the Senate may be then sitting, and that rule 95(4) be suspended in relation thereto.

AIR PASSENGER AND CARGO SERVICE

NOTICE OF INQUIRY

Hon. Percy Downe: Honourable senators, pursuant to rule 57(2), I give notice that two days hence, I will call the attention of the Senate to:

- the decreasing quantity and quality of air passenger and air cargo service available to the regions of Canada;
- the difficulty many Canadians who live outside our larger cities have in obtaining affordable and competitive air service; and
- 3. the current government-imposed operating requirements on Air Canada and the responsibility and opportunity for the Government of Canada to impose additional conditions on Air Canada so all Canadians can enjoy reasonably comparable levels of air service at reasonably comparable levels of cost, no matter where they live.

Some Hon. Senators: Hear, hear!

ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE RESOLUTION ON TERRORISM BY SUICIDE BOMBERS

NOTICE OF INQUIRY

Hon. Jerahmiel S. Grafstein: Honourable senators, pursuant to rules 56 and 57(2), I give notice that on Tuesday, October 4, 2005:

I will call the attention of the Senate to the following Resolution on Terrorism by Suicide Bombers, adopted at the 14th Annual Session of the OSCE Parliamentary Association which took place in Washington on July 5, 2005.

RESOLUTION ON TERRORISM BY SUICIDE BOMBERS

- 1. Noting the horror of historically unprecedented terrorist violence with the purpose to kill and massacre, to die in order to kill more people, to practice the cult of death, and to express personal desperation only through death;
- 2. Recalling that in the opinion of the 1986 Nobel Peace Prize Laureate, Elie Wiesel, unlike the Japanese soldiers who, towards the end of the Second World War chose to sacrifice their lives by attacking exclusively military targets, today's suicide terrorists prefer to attack defenceless and unarmed civilians, children and women, in order to inculcate in the minds of individuals and the masses, a total, in many respects worse than racist, aversion to the "enemy/infidel", and to totally dehumanize conflicts;
- 3. Denouncing the fact that some leaders of terrorist groups (Al Qaeda, Hamas, Hezbollah, the Islamic Army in Iraq, and so on) approve, encourage and extol these mass murders, without hesitating to endow them with a value, based above all on a hate-filled and distorted interpretation of certain sacred texts;
- 4. Noting that while the Muslim community, on the whole, has always tended to reject all forms of violence and fanaticism a growing number of people, often very young, are being induced to rethink the prescriptions of the Koran in the light of the mysticism of suicidal terrorism which, by that token, is alien to the Koran and to Islam:
- 5. Recalling that the most devastating terrorist attacks perpetrated in the world in the past few years have been committed against this disturbing background: the immense tragedy in New York and Washington DC on 11 September 2001, the Madrid attacks on 11 March 2004, and the heinous attacks in various places in Israel, Russia, the Philippines, India, Pakistan, Afghanistan, Iraq, and the massacres in Bali, Casablanca, Istanbul and Jakarta;
- 6. Noting that a firm warning against terrorism was significantly issued by the Holy Father, John Paul II, who on numerous occasions stated that "Those who kill by acts of terrorism actually despair of humanity, of life, of the future" (message of his Holiness John Paul II to celebrate World Peace Day, 1 January 2002);
- 7. Agreeing in this same perspective, that the Simon Wiesenthal Centre, which for decades has been committed to promoting religious tolerance and to combating anti-Semitism, has explicitly promoted a mobilization campaign to get the international community to recognize that terrorist suicide attacks are real "crimes against humanity";

- 8. Considering that dealing in death in this manner is a blatant attack on the most elementary human rights and on the international legal order, because it constitutes an intolerable violation of "the general principles of law recognized by civilized nations" (article 38(I)(c) of the Statute of the United Nations International Court of Justice), by virtue of which human life enjoys universal protection;
- 9. Considering also that the Statute of the International Criminal Court (adopted by the United Nations Diplomatic Conference in Rome on 17 July 1998) marked a major milestone in the historical process of establishing the legal notion of crimes against humanity as a category in their own right, developed over 50 years as international customary law, as crimes forming part of the so-called jus cogens; and that these are therefore crimes for which no impunity can be accepted, and to which immunities pertaining to political crimes, or to time-barring and all other exemptions from personal responsibility do not apply, and that they are subject to universal jurisdiction, such that all states are duty-bound to prosecute or extradite the guilty, regardless of the nationality of the guilty parties and the place in which the crime is committed;
- 10. Noting, however, that the Statute did not expressly include in this category of crimes acts of terrorism;
- 11. Recalling, lastly, that the OSCE Assembly in its Berlin Declaration adopted in July 2002 specifically addressed this issue in paragraph 93 of the Declaration, urging "all participating states to ratify the statute for the International Criminal Court, and to seek broadening of its scope to include terrorist crimes";

The Parliamentary Assembly of the OSCE:

- 12. Considers that in the light of the provisions solemnly sanctioned by the Statute of the International Criminal Court, it must be agreed that suicide attacks of the terrorist nature constitute "crimes against humanity" in that they are deliberately committed "as part of a widespread or systematic attack directed against any civilian population" which involves the multiple commission of murders of defenceless civilians "pursuant to or in furtherance of (...) organizational policy to commit such attack" (Art.7(I) of the Statute of the International Criminal Court);
- 13. Expresses forcefully this conviction, also because the "closing provision" of subparagraph (k) of article 7 of the Statute of the International Criminal Court, includes among the crimes against humanity "other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health";
- 14. Expresses the hope that the OSCE member states will make representations before the United Nations General Assembly, clearly and unequivocally, that terrorist acts committed by suicide bombers are, for all the intents and purposes of current international law, very serious

- "crimes against humanity" that cannot be timebarred, for which the leaders of the states and groups which order or facilitate their commission must be called to account before the international courts responsible for prosecuting universal crimes;
- 15. Supports the recent position adopted by the Council of Europe Parliamentary Assembly in its Resolution 1400 of 6 October 2004, stating that "Every act of terrorism... is a challenge to democracy and must be considered a crime against humanity", and calls on all the OSCE member states of the Council of Europe to adopt and implement the fundamental 1977 European Convention on the Suppression of Terrorism;
- 16. Endorses the "Guidelines on Human Rights and the Fight Against Terrorism" adopted on 11 July 2002 by the Committee of Ministers of the Council of Europe, considering in particular that every action to combat terrorism must be taken in respect for human rights and fundamental freedoms, as stated in the Resolution on Human Rights and the War on Terrorism adopted by the OSCE Assembly at its Berlin session in July 2002;
- 17. Requests that, according to the binding commitments set out in the fundamental United Nations Security Council Resolution 1373, adopted in the wake of the 11 September 2001 tragedy, any OSCE member states that have not yet done so, namely 30 out of 55, ratify and implement the 12 United Nations Conventions and the relevant Protocols on combating terrorism, as expressly requested in the OSCE Bucharest Plan of Action For Combating Terrorism, adopted by the Ministerial Council in December 2001, which recognize d this set of international agreements as being "the basis for the global legal framework for the fight against terrorism" and welcomes the adoption of the text of a new Convention against Nuclear Terrorism, to be opened for signature in September 2005;
- 18. Urges the participating states to redouble efforts to finalize a comprehensive convention against terrorism;
- 19. Endorses the affirmation in the Statement on Preventing and Combating Terrorism adopted by the Sofia Ministerial Council in December 2004 that "the OSCE efforts to counter terrorist threats should be taken in all OSCE dimensions, the security dimension, including the political-military area, the economic and environmental dimension, and the human dimension";
- 20. Requests in the knowledge that the OSCE's comprehensive approach to security gives the organization a comparative advantage in addressing factors across the OSCE dimensions that may engender terrorism the implementation of the activities put into place within ATU, the OSCE Action against Terrorism Unit, instituted in 2002 to report to the Secretary General, above all in order to step up the coordination of all the Organization's operational instruments to counter terrorism;

- 21. Welcomes the proactive approach taken by the Action against Terrorism Unit (ATU) in addressing, in collaboration with the United Nations Interregional Crime and Justice Research Institute (UNICRI), the threat of suicide terrorism through its "Technical Expert Workshop on Suicide Terrorism" held in Vienna on 20 May 2005, which provided the participating states and the OSCE Partners for Cooperation with important information for a better understanding of this phenomenon and with a platform for sharing experiences in countering it, and encourages the Unit to continue its work in this area; and
- 22. Welcomes the commitments recently undertaken by the governments of the OSCE in the matter of combating terrorism, and in particular those set out in the OSCE Charter on Preventing and Combating Terrorism and in the Decision on Implementing the OSCE Commitments and Activities on Combating Terrorism, as adopted by the Porto Ministerial Councils in 2002, in which, among other things, the SALW (Small Arms and Light Weapons) Program is indicated as a priority area of interstate cooperation.

QUESTION PERIOD

ROYAL CANADIAN MINT

EXPENSES OF PRESIDENT

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, my question is addressed to the Leader of the Government in the Senate. I have in my hand a letter of resignation from the CEO of the Canadian Mint, David Dingwall. Is this a voluntary resignation or was Mr. Dingwall fired? If he was fired, was it because of his \$464,000 Technology Partnership success fee and his delays in registering his lobbying activities, or was it because of the spending revelations that came to light in today's newspapers?

Hon. Jack Austin (Leader of the Government): Honourable senators, let us be clear that there is no allegation of wrongdoing against Mr. Dingwall. Statements have appeared in the press alleging that certain expenditures took place or certain events did not take place, but there are no charges against Mr. Dingwall. I heard nothing in that regard in the question except innuendo.

In answering that question I want to place before the Senate a statement by David C. Dingwall, President and CEO of the Royal Canadian Mint. It was issued today and it reads as follows:

Earlier today I sent a letter to the Prime Minister and to the Chairperson of the Board tendering my resignation as President and CEO of the Royal Canadian Mint.

During the summer months, I had a rare opportunity to take some time to reflect on my career with my wife, my family, and some close friends. I told them that I would more than likely be leaving my position as CEO some time over the next number of months in order to pursue a

number of projects. I am fortunate that I have the health and quite a number of years left in me to devote to a new chapter in my career.

Central to my decision was the achievement of the goals that I set out in consultation with the Board of Directors and the Government of Canada. I have spent the past two-and-a-half years devoting many long hours to the challenges and responsibilities of turning around the Royal Canadian Mint, with a strong, dedicated team of executives and hard-working employees. Together we have accomplished many things:

- Early in my tenure, we were able to stabilize the organization's financial situation;
- In 2004, we returned the Mint to profitability with a pre-tax profit of \$15.9 million and paid a dividend to the Government of Canada of \$1 million;
- We have significantly grown the business; in 2004, Mint revenues increased by \$70 million. Moreover, year-to-date August 2005, revenues increased \$35 million over the same period 2004;
- In 2004, we returned \$64 million dollars in seigniorage to the shareholder, the Government of Canada;
- Through the adoption of lean enterprise, we have increased productivity and focused on our customers;
- And we have maintained an open dialogue and positive relationships with our two unions.

Recently, there have been some media stories regarding the work I undertook on behalf of two technology companies seeking investment from Technology Partnership Canada.

I will simply say that I worked very hard on each and every one of the contracts and did, to the best of my knowledge and ability, comply with all aspects of the Act governing the government relations business. If there was a registration problem or other technical compliance issue on one of the contracts, then that is entirely my responsibility.

With regard to the issue of my expenses, all of the expenses were related to my responsibilities and each of them were disclosed to the Board and will stand up to scrutiny as completely appropriate to my role as President of the Mint. I have asked the Board to strike an independent committee to review all of the expenses and I will abide by any findings the committee may have with regard to their appropriateness.

However, given the profile that these stories have, I certainly do not want to detract in any way from the important work of the Mint. So, rather than wait the few months to make the move to the next stage of my life, I am taking this opportunity to leave. I do so with pride in the work we have achieved together.

I will always cherish the friendships and the honour of serving the Government as the President of the Mint and I look forward to a new chapter in my life.

Senator Stratton: Honourable senators, that letter amounts to nothing but obfuscation and whitewash.

Was Mr. Dingwall pushed, was he fired, or did he leave voluntarily? The Leader of the Government did not answer that fundamental question.

He said that the board will examine his expenses. That is like the rooster examining every chicken in the hen house. I do not think that is done on a friendly basis. He has a direct point to make.

(1530)

An independent audit of those expenses must be conducted, not an audit by the board of the Royal Canadian Mint. Was he fired? Was he pushed? Did he voluntarily resign? Those are fundamental questions.

Senator Austin: Honourable senators, I have three points. First, Mr. Dingwall stepped out as President and CEO of the Royal Canadian Mint on his own initiative. He was not pushed and his resignation was not requested. Mr. Dingwall is showing his high regard for public service and the defence of the institution for which he was responsible. He does not want the Royal Canadian Mint to be involved in controversy over his behaviour.

Second, I challenge Senator Stratton's impugning of the integrity and independence of the Board of Directors of the Royal Canadian Mint. If the honourable senator has any evidence to show that the board is not worthy to manage and govern the Royal Canadian Mint, then I would ask that he produce it and make his charges.

Third, the honourable senator is full of bluster and innuendo with respect to Mr. Dingwall. He has said nothing to indicate that Mr. Dingwall is in breach of any of the obligations he has undertaken. This game of skating around the facts to try to create an impression of malfeasance is not worthy of a parliamentarian.

Senator LeBreton: Only those on the other side know what is worthy, of course.

Senator Austin: If the honourable senator has charges, I suggest that he lay them and we will deal with them.

Senator Stratton: For the record, because the leader would prefer obfuscation and whitewash, Mr. Dingwall's expense account billings of \$750,000 included the following: \$92,682 for foreign travel, including a one-day bill for over \$13,000; \$40,355 for domestic travel; \$3,314 for foreign dining; \$11,173 for domestic dining, including \$5,953 for a single meal at a posh Ottawa restaurant; \$5,297 for golf membership fees; \$2,500 for domestic limousine service.

Some Hon. Senators: Oh, oh!

Senator Stratton: I will repeat these figures until the chamber quiets down.

Senator Mercer: How many?

Senator Prud'homme: I have a point of order, Your Honour.

The Hon. the Speaker: I would remind honourable senators that points of order are not in order during Question Period. I would ask honourable senators to respect the rights of other senators. It is most difficult to hear the exchange between Senator Stratton and Senator Austin.

Was the Honourable Senator Stratton finished with his question?

Senator Prud'homme: That was my point of order.

Senator Stratton: For the record, I will repeat my last comment, in part, because of the noise, and I will table the document thereafter.

I said: \$11,173 for domestic dining, including \$5,953 for a single meal at a posh Ottawa restaurant; \$5,297 for golf membership fees; \$2,500 for domestic limousine service, despite having a government car at his disposal.

Senator Angus: That is not a hybrid car.

Senator Austin: Honourable senators, there comes an outline of events without any accountability or information with respect to what was occasioned by those events. There is an accountable board of directors that makes judgments with respect to appropriate expenditures in any Crown corporation. This Crown corporation operates in the commercial world and competes with mints and producers of coins all over the world. I read into the record the profitability of this Crown corporation under the leadership of Mr. Dingwall. It would seem that the honourable senator does not know anything about the facts. He does not know how many people went to which events, what the events were or which customers were there.

Senator Stratton: Exactly. An independent audit is needed.

Senator Austin: I am telling Senator Stratton that the best corporate practice and first line of defence is the board of directors of a corporation, or else why have them? There are high levels of responsibility as directors of a Crown corporation, as in the life of private corporations.

Senator Angus: That is why they fired him.

Senator Austin: Senator Angus has said that they fired him; that is absolutely untrue. Senator Angus does not know the facts. He just wants to play in the political puddle, again. I do not want to use another word that has to do with puddle, but that is what he is attempting to do.

Senator Angus: Puddle, duddle.

Senator Austin: Honourable senators, I believe that questions about the facts are legitimate in Question Period. Political rhetoric that is not based on any approach of fairness or attempt to be objective should play little role in this chamber. It may belong in the other place —

Senator Stratton: Are you lecturing again, Senator Austin?

Senator Austin: I am lecturing you because you need a lecture.

Some Hon. Senators: Shame!

Some Hon. Senators: Hear, hear!

Senator Austin: The public has made it very clear that they disapprove of the behaviour of members in the other place.

Senator Stratton: Why do you not use the entire Question Period, Senator Austin? Succinct answers are not in your favour.

Senator Austin: All in this chamber earned respect in July for their civilized and balanced approach to difficult issues. I would suggest that honourable senators keep that precedent in mind.

INFRASTRUCTURE AND COMMUNITIES

HIGH FUEL COSTS—PUBLIC TRANSIT POLICY— SUPPORT IN RURAL AREAS

Hon. Donald H. Oliver: Honourable senators, my question for the Leader of the Government in the Senate relates to two quotations in Toronto newspapers. First, Toronto-area cabinet minister John Godfrey, Minister of State for Infrastructure and Communities, was quoted in the *National Post* of September 8, 2005, as saying, "The solution to soaring gas prices is more public transit." Later, on September 24, 2005, in *The Toronto Star*, Minister Godfrey said:

The only way we're going to get ahead of the curve is a combination of offering people decent public transit and encouraging them to live and develop places which are close to that transit in a much more compact form.

Honourable senators, we on this side support more public transit and believe that transit passes should be tax deductible because that would boost ridership and help address the cause of global warming. How does the public transit policy announced by Minister Godfrey aid and help the millions of Canadians who live in rural Canada?

Hon. Jack Austin (Leader of the Government): Honourable senators, a statement by Minister Godfrey with respect to public transit is backed by this government because public transit is the way to deal with soaring energy costs and to attain efficient mobilization of people in the life of their communities. I doubt whether any senators in this chamber would not support that proposition by Minister Godfrey.

With respect to the question of its application to rural conditions, Minister Godfrey was addressing urban municipality issues. The application to rural conditions must be taken on its own merits. Smaller communities do not generally experience what we in British Columbia experience in trying to drive from Vancouver to Surrey or what people in Toronto experience when driving on Highway 401 or in Ottawa on the Queensway. It is similar in other urban centres.

I do not know how we will deal with the mass of single-occupant cars crowding our highways and costing us a great deal in environmental pollution and the economics of energy.

Honourable senators, the rural issue is to be included in an overall view of the use of energy in transportation; it is not excluded. With respect to rural communities, the environmental health of those communities is equally a priority of the government.

• (1540)

Senator Oliver: The words used by the minister in the National Post article were, "The solution to soaring gas prices..." His statement in that paper and others did not address soaring gas prices and the effects and solutions for rural Canada. Could the minister please address the effect of soaring gas prices in rural Canada and what public policies are there for that?

Senator Austin: What Minister Godfrey is addressing is the huge volume of people who move in large urban centres and the cost of that movement to the economy. Of course, that huge volume is a demand on the available energy and, therefore, that demand raises the price of energy. That is the core of his view.

As to the impact on the rural community, it is a different use configuration entirely. Rural people are not travelling huge distances in their region. Of course, if they are suburbanites, they are part of the urban issue. If one person travels from Markham to downtown Toronto in a car, to take an Ontario example, are they rural in Markham? Are they rural in Unionville when they are part of a huge urban conglomeration and they earn their living in an urban centre?

The issue must be developed and understood. However, effectively, we are one common demand system on energy and the motor centre of that demand is in our large urban communities. That is why Minister Godfrey is dealing with the better utilization of public transit.

Hon. Gerald J. Comeau: In response to the first question posed by Senator Oliver, you indicated at one point that someone is looking at the impact of higher gasoline prices on rural communities. As you know, people in rural communities need to travel some long distances and depend on transport from long distances either to get their products to market or products into their regions. There is a huge impact on rising gas prices on rural communities — probably much more so to individual residents in those communities than for urban people.

I thought I heard the Leader of the Government in the Senate indicate that someone would be looking at this specifically for rural communities. Could the minister expand on that? What would this strategy be? Who would look at the impact of rising gas prices on those rural communities? Is this something to be announced or is this something that has already been announced?

Senator Austin: The answer to the question specifically is Minister Godfrey has the portfolio with respect to cities and communities. This whole topic comes under his responsibility.

Work is being done, obviously. As energy prices have climbed, the government is tracking the economic impact of changing energy prices. The government has indicated that it is aware that there are vulnerable communities in Canada, both urban and rural, that will need special attention with respect to the impact of higher fuel costs, whether it is for transportation or for home heating. As a result of the tracking that continues, the government is developing a framework for ameliorating those circumstances.

THE ENVIRONMENT

HIGH FUEL COSTS—COMMENTS BY MINISTER

Hon. Ethel Cochrane: Honourable senators, I wish to follow along that trend. As well, besides Mr. Godfrey, there was another minister, Environment Minister Stéphane Dion, who is on record as stating that high gas prices are actually good for Canada in the medium and long term.

Two ministers from the government are putting forth the same idea. My question is this: What assurances can the minister give us that these comments in support of high gas prices are not representative of official government policy?

Hon. Jack Austin (Leader of the Government): Honourable senators, there is no policy on the part of the government —

Senator LeBreton: There is no policy in anything.

Senator Austin: — to push gasoline prices higher. I am sure that Senator Cochrane understands that Minister Dion is referring to a common economic understanding of the way in which the marketplace works.

The marketplace is something that is important to the Liberal Party of Canada and I am sure the Conservative Party of Canada, too. From Mr. Dion's point of view, there are benefits to conservation as gas prices are forced up by the international community because oil and petroleum products are international commodities and pricing is as a result of a world-based pricing system. It is a complex system that prices the barrel of oil, which flows back into all sorts of products and the price of those products.

As the price rises, not due to any action by the Government of Canada but due to the action of the international market system, an argument — and one that I endorse — is that people who have to pay higher prices will give greater care to their use of energy. They will become more conservation-minded — something that all of us have said is important to us in so many different ways. They will make a judgment whether — to take the classic

economist's example — they climb in the car to drive 12 blocks to buy a package of cigarettes or a bottle of milk. What is the trade-off between the cost of that energy and the products that are being purchased?

It is a reference to economic behaviour. Again, I want to make it clear that this government has to respond. All Canadians individually, each and every one of us, must respond in our own particular ways to the changes which world circumstances bring to the price of energy.

FINANCE

HIGH FUEL COSTS—POSSIBILITY OF TAX RELIEF

Hon. Ethel Cochrane: Honourable senators, one must realize as well with these gas prices that the taxes that the government receives constitute up to 40 per cent of the price of the gasoline paid at the gas stations. That is —

Senator Kinsella: Gouging.

Senator Cochrane: It is gouging. Do you know that in the United States it is only 23 per cent?

May I ask, Senator Austin, is the government looking at this, namely, at reducing some sort of tax? We have people everywhere across Canada living on minimum wage.

Senator Kinsella: They cannot afford to drive a car.

Senator Cochrane: They cannot afford anything. It is devastating. Now they are even looking at what they will do in the winter months with the high costs of fuel. We have seniors living on one salary. It is impossible for them to pay for the high cost of all these things that are coming. Surely the government will have to look into this now.

Senator Kinsella: Do not hold your breath!

Hon. Jack Austin (Leader of the Government): Honourable senators, I think every senator here would be equally concerned about the financial pressures that rising energy prices bring to individual Canadians. It is difficult for a number of Canadians across this country to bear higher costs — and those costs being experienced now are energy costs.

I want to put aside a misconception with respect to federal participation. The federal fuel excise tax rate is 10 cents a litre for gasoline and 4 cents a litre for diesel fuel. These do not change with the price of the energy. That tax raises \$5 billion but it is a fixed amount. Some taxes change; GST is one of them.

Senator Kinsella: What happened then in 1993?

Senator Austin: However, the bulk of the taxes on the retail sale of gasoline are collected by respective provinces and any reduction of prices will affect the provinces. Also, of course, an enormous windfall is accruing to the revenues of producing provinces. Those are my province of British Columbia, as well as Alberta and Saskatchewan.

• (1550)

With respect to these taxes, Canadians have to face the reality that these taxes support a variety of social programs. Senator Cochrane has urged the government to spend more money in various ways on social programs. I am talking about programs that include health care —

Senator Stratton: Good succinct answer, Senator Austin.

Senator Austin: — education and —

Senator Stratton: You are reading out of the book.

Senator Austin: - programs for seniors.

I want honourable senators to know that small and medium enterprises that are GST registrants are able to claim input tax credits for the tax that they pay on fuel. The GST is not that significant for certain taxpayers and, in particular, does not discourage the performance of small and medium enterprise. The issues are complex and cannot be taken into a simple statement such as, "Oh, the government should give back part of its taxes." All of us realize that governments spend taxes on people's wellbeing. The issue is not simply to be reduced to one of, "Where it is hurting, federal government give up the money, period."

Senator Mercer: Peter MacKay wants to give his money back to the oil companies.

CANADA-UNITED STATES RELATIONS

MAINE—PROPOSED LIQUEFIED NATURAL GAS TERMINALS

Hon. Michael A. Meighen: Honourable senators, my question is for the Leader of the Government in the Senate. It refers to the proposals to establish LNG terminals in Passamaquoddy Bay and the St. Croix River area, which I alluded to earlier.

As the Leader of the Government in the Senate knows, being the widely travelled person he is, the only navigable entrance to Passamaquoddy Bay and the St. Croix River is through the Head Harbour Passage. Head Harbour Passage, honourable senators, lies between two Canadian islands. Therefore, it is clearly within Canadian waters. At its narrowest point, it is only 1,800 feet wide. Frequent strong winds and fog make navigation there extremely hazardous, to stay the least.

In 1976, under Prime Minister Pierre Trudeau, an American proposal to locate an oil refinery near the same proposed LNG sites was defeated because the government denied the right of passage through Head Harbour Passage to those oil tankers. The government of the day stated that, having examined a great number of possible locations, Passamaquoddy Bay and Head Harbour Passage were by far the least acceptable for tanker operations.

Honourable senators, nothing has changed since 1976 when the government of the day took that decision.

In view of the foregoing, I ask the leader: Will he persuade his cabinet colleagues to get off the stick, stop wobbling or wavering — dare I say, dithering — and just say no? Just say no now to these pernicious proposals to industrialize Passamaquoddy Bay and the St. Croix River that would destroy the way of life of its residents. Just make it clear to our American friends and, in particular, to the proponents of the LNG facilities, that Head Harbour Passage is not now and never will be available to the superpowers.

Hon. Jack Austin (Leader of the Government): Honourable senators, I of course took note of Senator Meighen's comments under Senators' Statements and the question he has put to me specifically. I will make inquiries about the work underway with respect to the issues that the honourable senator has raised dealing with Passamaquoddy Bay and the LNG proposals that American companies have made to use territory in the state of Maine but territory that is reached through a Canadian channel. I will endeavour to inform honourable senators as quickly as I can.

Senator Meighen: By way of a supplementary question to the Leader of the Government, do not be put off by the suggestion that we cannot do anything now because there is no formal proposal on the table. There was no formal proposal on the table in 1973 when the government made it clear that, should there be a formal proposal thereafter, Head Harbour Passage was not available. In 1976, there was a formal proposal. The State of Maine authorized the establishment of that oil refinery, and the Government of Canada wisely said, "Look back to 1973 when we told you that you cannot come through Head Harbour Passage. Now you are saying formally you want to, and the answer is still no."

Do not wait any longer, I urge you. Otherwise, the planning process will be far advanced, which will make it more difficult. What the residents of the area fear is that this whole proposal will be linked with other political problems between our two countries and maybe suffer as a bargaining chip.

Senator Austin: Honourable senators, Senator Meighen's representations are very clear. Thank you.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting delayed answers to ten oral questions raised in the Senate. The first response is to a question raised by Senator Oliver on July 5, 2005, in regard to the representation of visible minorities on boards; the second response is to a question raised by Senator Andreychuk on June 20, 2005, concerning Mr. Aman Prakash; the third and fourth responses are to questions raised by Senator Comeau on June 23 and July 19, 2005, concerning provincial legislation in regard to transferring fish quotas to Fisheries Products International and funding cuts to an independent researcher studying northern cod stocks.

[English]

The fifth and sixth delayed answers are to questions raised on July 19 by Senator Forrestall regarding Sea King reconfiguration by Industrial Marine Products for operational purposes in Afghanistan and regarding possible purchase of used American, British or Egyptian Sea Kings.

The seventh and eighth responses are to questions raised by Senator LeBreton regarding cross-border drug sales and regarding the Gomery inquiry, representation of Crown counsel. These questions were raised on June 30 and July 19 respectively.

The ninth response is to an oral question raised by Senator Oliver on July 19 regarding changes to the Budget 2005 use of supplementary estimates to incorporate statutory items from previous fiscal year.

The final and tenth delayed answer is in response to a question raised on June 14 by Senator Tkachuk regarding the RCMP and the response of the Financial Transactions Reports Analysis Centre to reports on money laundering.

FEDERAL CROWN CORPORATIONS AND AGENCIES

REPRESENTATION OF VISIBLE MINORITIES ON BOARDS

(Response to question raised by Hon. Donald H. Oliver on July 5, 2005)

The Government acknowledges the Senator's suggestion on creation of a Commissioner for Employment Equity or a Commissioner of Diversity to ensure more effective implementation of employment equity in the federally regulated sector.

In addition to the accountability resulting from the current parliamentary requirement for tabling of annual reports on the state of employment equity before Parliament, the Senator would undoubtedly be pleased with the Prime Minister's announcement, on September 8, 2005, of a Senior Advisor on Diversity. Errol Mendes, formerly Professor of Law, University of Ottawa, has joined the Privy Council Office, with responsibility for diversity issues and special projects.

CITIZENSHIP AND IMMIGRATION

DEPORTATION OF AMAN PRAKASH

(Response to question raised by Hon. A. Raynell Andreychuk on June 20, 2005)

The *Privacy Act* prevents us from discussing the specifics of an individual case without the consent of that person.

However, no one is removed from Canada without careful analysis. All particulars of an individual case are given full consideration and review to ensure that no exposure to harsh or inhumane treatment is likely to result.

Everyone ordered removed from Canada is entitled to due process before the law and have access to avenues of recourse, including judicial review and a pre-removal risk assessment.

FISHERIES AND OCEANS

NEWFOUNDLAND AND LABRADOR— PROVINCIAL BILL INVOLVING TRANSFER OF FISH QUOTAS TO FISHERIES PRODUCTS INTERNATIONAL

(Response to question raised by Hon. Gerald J. Comeau on June 23, 2005)

The Newfoundland and Labrador (provincial) Bill referring to fish quotas held by Fisheries Products International has not been the subject of discussion in Cabinet.

It is the responsibility of a province to draft provincial legislation which deals with subject matters which fall within their jurisdiction. The FPI Bill drafted by the province of Newfoundland and Labrador should take into consideration existing federal and provincial legislation, including the federal *Fisheries Act*. The provisions in the Bill are not binding on the federal government.

A licence, including the quota that is attached, issued under the *Fisheries Act* reflects a privilege to fish that is granted at the discretion of the federal Minister of Fisheries and Oceans. A licence does not convey any property rights to the licence holder. A licence is the property of the Crown. It is not an asset that can be bought, sold, leased or bequeathed. Furthermore, fishing licences are traditionally issued for a period of one year. The privilege to fish terminates on the date of expiry of the licence.

Considering the nature of this privilege and in light of the discretionary authority to issue licences, the Minister of Fisheries and Oceans cannot fetter his discretion. He cannot make commitments that would limit his or his successor's discretion under the Fisheries Act. Hence, the Minister of Fisheries and Oceans cannot make any commitment regarding the provisions contained in the FPI Bill on the matter of the licences currently held by FPI.

The Government of Newfoundland and Labrador may choose to qualify or refer to quotas and licences in their provincial legislation as property. The provincial legislation does not modify the existing nature of the licensing privileges to fish issued under the *Fisheries Act*. The provisions of the FPI Bill as they relate to the licences currently held by FPI are not binding on the federal government.

FUNDING CUTS TO INDEPENDENT RESEARCHER STUDYING NORTHERN COD STOCKS

(Response to question raised by Hon. Gerald J. Comeau on July 19, 2005)

The Department has had to discontinue the provision of vessel time to the Chair in Fisheries Conservation at Memorial University of Newfoundland and Labrador. However, there are several factors that are important to understand in relation to this issue.

The Chair in Fisheries Conservation at Memorial University of Newfoundland and Labrador was established in 1997 to develop an independent fisheries research program to complement Government programs and to provide a focus for fisheries research at the University. Dr. George Rose was given the leadership of the Chair.

The Chair in Fisheries Conservation is a group of scientists/professors (there have been as many as three at one time) as well as research assistants, post-doctoral fellows and graduate students. Since 1996, the group has conducted research that has focused on northern cod but also many other marine species in Newfoundland waters.

Primary support was secured from the National Sciences and Engineering Research Council (NSERC) Industrial Chair program. Additional resources were secured for a 5-year period under the terms of an Agreement between the University, the Department of Fisheries and Aquaculture of Newfoundland and Labrador, Fisheries Products International (FPI) and the Department of Fisheries and Oceans.

Under this Agreement, DFO committed to make available, for the period 1997 to 2003, 30 days annually of dedicated time of government research vessels to enable at-sea research related to the Chair program. The actual vessel time provided was approximately 50 sea-days annually between 1997 and 2003, which cost \$600,000 to \$700,000 annually and totaled over \$5 million. This contribution was not expressly for the research conducted by Dr. Rose but to support the Chair.

Funding for the Chair in Fisheries Conservation has been winding down over the last several years. The major funding source, NSERC, is in its final stages and will be finished by 2006. It is also understood that FPI have discontinued their contributions (originally \$75,000) two years ago, and that Provincial government funding (originally \$300,000) has recently been reduced to \$200,000 in the last two years. Dr. Rose has publicly acknowledged this trend and that the Chair is in the process of winding down. At present only Dr. Rose and a technician are believed to remain with the Chair.

Due to operational problems with research vessels, the department could not meet its commitment to the Chair program for 2004.

Although DFO was able to extend the agreement with Memorial University beyond the original time frame, it is no longer in a position to do so. In the face of continuing equipment deficits and escalating at-sea costs, the Department has re-focused its fisheries research program to focus on core Departmental objectives and the research vessel time is now needed to support the core research mandate of the department. The decision to permanently discontinue vessel support to the Fisheries Conservation Chair program was made and communicated to the Vice-President of Research at Memorial University of Newfoundland and Labrador in October 2004.

It should be stressed that DFO is not abandoning research on the northern cod stock. The last full assessment of northern cod was completed in the spring of 2005. This was based on an ongoing program of monitoring and fisheries research which includes:

- The broad-scale departmental research vessel surveys that monitor abundances of fish over much of the Newfoundland shelf and the offshore portions of the northern cod stock area;
- The Groundfish Sentinel Program, which monitors trends in abundance in the inshore portions of the northern cod stock area. This program is delivered substantially by industry vessels and staff, with funding and technical support from the department;
- At-sea and port sampling of catches in directed and by-catch fisheries to document their characteristics and glean biological information about the fish;
- A range of other more-targeted activities that collectively add to knowledge of the stock and its status.

In addition, the need to take concrete measures to promote recovery of the northern cod stock has resulted in several new research initiatives. These include:

- Cod tagging and tracking traditional tagging (determining movement by the location of cod that are harvested compared to where they were tagged) as well as electronic tags which are tracked by satellite.
- An analysis of the impact of cod by-catch in other fisheries on cod recovery.
- Implementation of studies of the effect of closed areas on cod recovery. The focus of this work will be the current closed area in Hawke Channel. Additional work is being conducted to examine the impacts of the crab resource in this area.

In April of this year, the Government announced 11 million dollars in new program funding that will focus on gaining a better understanding of sensitive marine areas and sensitive aquatic species associated with the Grand Banks. The program will include research on straddling and highly migratory fish stocks, and on sustainable fisheries practices and harvesting strategies that use a precautionary approach.

In summary, it is accurate to view this situation as a winding down of the work of the Chair in Fisheries Conservation at Memorial, after a period of solid research contribution conducted on a host of species and based on a range of financial support. The financial support of all funding partners to the Chair has been stopped or reduced. The DFO contribution has exceeded the one that was identified in the Agreement signed in 1997.

The impact of this winding down is not a threat to the department's ability to understand and manage the northern cod resource. The ongoing research program on northern cod remains solid and diversified, and will continue to support the development of sound advice about that stock into the future.

Fisheries research in Newfoundland and Labrador remains a priority for this department and we will continue to maintain our focus on core ecosystem-based objectives and deliver a quality science program in collaboration with our partners including Memorial University.

NATIONAL DEFENCE

SEA KING HELICOPTERS— REFITTING FOR ASSIGNMENT IN AFGHANISTAN

(Response to question raised by Hon. J. Michael Forrestall on July 19, 2005)

At the present time, Industrial Marine Products is not reconfiguring the Sea Kings for operational purposes in Afghanistan.

When the Canadian Forces are deployed on multinational operations, we always have discussions with our allies regarding the pool of capabilities required by the mission and how members can assist each other in fulfilling these requirements.

While we do not have heavy to medium-lift helicopters in Afghanistan, our allies assure us that such capabilities are provided to the Canadian Forces if available.

SEA KING HELICOPTERS— PURCHASE OF USED EQUIPMENT

(Response to question raised by Hon. J. Michael Forrestall on July 19, 2005)

The Government of Canada is not making inquiries about the purchase of used Sea Kings from the United States, Great Britain, or Egypt.

Moreover, the Government of Canada is moving ahead with the purchase of Canada's new Maritime Helicopters.

On November 23, 2004 the Government signed two contracts to acquire 28 CH-148 Cyclones. The CH-148 is the right helicopter for the Canadian Forces at the best price for Canadians.

JUSTICE

COMMISSION OF INQUIRY INTO SPONSORSHIP PROGRAM AND ADVERTISING ACTIVITIES—REPRESENTATION OF CROWN COUNSEL

(Response to question raised by Hon. Marjory LeBreton on June 30, 2005)

Where ministers or Crown servants are required to testify before a commission of inquiry, they are eligible to apply for legal assistance under the *Treasury Board Policy on the Indemnification of and Legal Assistance for Crown Servants*. Such assistance is provided by Department of Justice counsel unless there is a conflict of interest between the minister or Crown servant and the Government of Canada. Where a conflict exists and a minister or Crown servant otherwise meets the requirement under the Policy, they may be authorized to retain and instruct private sector counsel at public expense.

The role of counsel in such circumstances, whether DOJ or private counsel, is to prepare the minister or Crown servant to give his or her testimony and to assist them in replying to any subpoena that they may have to respond to.

In terms of commissions of inquiry, DOJ counsel represented the Honourable Monique Bégin and the Honourable Jake Epp in the context of the Krever Inquiry.

There were also a number of legal proceedings where ministers were sued in their official capacity and, occasionally, in their personal capacity, where DOJ counsel acted for them. This is a matter of longstanding practice, in place for many decades and authorized under the *Treasury Board Policy*.

HEALTH

CROSS-BORDER SALE OF PRESCRIPTION DRUGS

(Response to question raised by Hon. Marjory LeBreton on July 19, 2005)

Health Canada is pursuing a series of initiatives to protect Canadians' continued access to an adequate supply of safe and affordable drugs.

The first operational priority is to establish the proposed drug supply network, so that the Government of Canada will have the ability to effectively identify and track drug supply shortages in Canada. The drug supply network is envisioned as a virtual entity of collaborative partners with the capacity to gather and analyse information from a variety of sources (i.e., some hospitals, wholesalers and retailers, and pharmacies).

In light of potential American legislation legalizing the bulk import of Canadian drugs, the Minister intends to bring forward enabling legislation under the Food and Drugs Act to strengthen the government's capacity to prohibit the export of needed Canadian drugs when there is a risk of shortage or actual shortage to protect the health of Canadians. The proposed Export Restriction Scheme would permit the Minister of Health to create and maintain a list of drugs that would be prohibited from export.

Cross-border drug sales have also highlighted questionable prescribing practices by a small number of Canadian doctors. To protect consumer safety pertaining to drugs sold in Canada, the Minister is proposing that drugs only be sold in the context of an established patient-practitioner relationship. This will be accomplished by strengthening the federal *Food and Drug Regulations* governing the sale of prescription drugs sold in Canada.

In recognition of the complexity of these undertakings, and the shared responsibility in protecting the health and safety of Canadians between the federal, provincial and territorial governments, health professionals, industry, consumers and other stakeholders, Health Canada will consult and seek the advice of key stakeholders as we move forward with our federal initiatives. Legislation will be introduced in the coming months.

FINANCE

CHANGES TO BUDGET 2005—USE OF SUPPLEMENTARY ESTIMATES TO INCORPORATE STATUTORY ITEMS FROM PREVIOUS FISCAL YEAR

(Response to question raised by Hon. Donald H. Oliver on July 19, 2005)

The main purpose of the Supplementary Estimates is to present to Parliament information on the Government's spending requirements which were not sufficiently developed in time for inclusion in the Main Estimates. This information directly supports an Appropriation Bill.

Supplementary Estimates also provide an update on significant changes to expenditure forecasts of major statutory items. Statutory items are those which Parliament has approved through other legislation.

The timing of these changes is dependent on when the actual cash transfer under the statutory authority was made. For example, the liabilities associated with the \$2.5 billion Canada Health and Social Transfer and the \$1.5 billion Medical/Diagnostic Equipment Fund, which were part of the 2003 Health Accord, were included in the 2002-03 financial statements. The accounting for these liabilities in 2002-03 is consistent with the accounting standards set out by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants. The Auditor General of Canada expressed a "clean" opinion on these financial statements.

However, the cash transfer to the provinces and territories did not occur until June 2003. Supplementary Estimates (B) for 2003-04 recorded these amounts under the Department of Finance — the year following the year in which they were booked as liabilities in the audited financial statements (see Supplementary Estimates (B) 2003-04 page 86).

With respect to Bill C-48, the Supplementary Estimates will present the transfers in the year that they occur as statutory expenditures. Given the timing of these expected transfers, this will be in the Supplementary Estimates in the year following the year in which they are recorded as liabilities in the financial statements.

ROYAL CANADIAN MOUNTED POLICE

RESPONSE TO FINANCIAL TRANSACTIONS REPORTS ANALYSIS CENTRE—RESPONSE TO REPORTS ON MONEY LAUNDERING

(Response to question raised by Hon. David Tkachuk on June 14, 2005)

The RCMP is one of the funded partners involved in the National Initiatives to Combat Money Laundering (NICML), which was launched in 2000. The NICML also included the development of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, and the establishment of FINTRAC as Canada's financial intelligence unit.

The RCMP was provided with a number of positions, which are assigned to Money Laundering Units across Canada, to assess money-laundering intelligence received from FINTRAC, CBSA and others.

The RCMP, through its Money Laundering Units, is the major recipient of money laundering intelligence (disclosures) from FINTRAC. In addition to these disclosures, the Units receive money-laundering intelligence from a number of other sources. These sources include: intelligence in relation to cross-border currency reporting incidences from CBSA-Customs; voluntary information received from reporting entities; information from other RCMP units, law enforcement agencies and other sectors. When intelligence is received, an investigative assessment is conducted to determine if a criminal investigation is warranted. The intelligence may add information on existing targets or provide new leads. It is important to understand that an investigative assessment is conducted on all FINTRAC disclosures received by the RCMP. While many disclosures have added value to and initiated several investigations, it is also important to note that a FINTRAC disclosure is but one piece of intelligence among a much greater volume of evidence that is needed to investigate a case and to prosecute. For this reason, we cannot attribute the successful investigation and prosecution of a case solely on a FINTRAC disclosure.

In cases where further action is deemed to be appropriate, the Money Laundering Unit will refer the matter to the appropriate RCMP Integrated Proceeds of Crime (IPOC) Unit, whose primary objective is to identify, assess, seize, restrain, and forfeit illicit and unreported wealth accumulated through organized crime activities. The IPOC Program is a multi-departmental program, which brings together the RCMP and a number of federal partners, as well as local police to carry out specialized proceeds of crime investigations.

The IPOC Unit will conduct a comprehensive file review and prioritization assessment to determine if resources can be allocated to pursue an investigation. Regardless of the decision to pursue an investigation, in all cases the intelligence is deemed valuable and is stored in a police database for future use.

The Public Safety and Anti-Terrorism (PSAT) Initiative also provided limited funding for resources to conduct financial intelligence to counter terrorist financing. This funding accounted for seventeen intelligence positions nation wide. The enactment of the Anti-Terrorism Act (Bill C-36) created new offences in relation to terrorist activity making virtually all aspects related to terrorist activity or support for terrorism a criminal offence.

Virtually every terrorist investigation has an element of financing within it and these investigations are complex, lengthy, resource intensive and require specific expertise to complete.

Twenty-five percent of all FINTRAC disclosures relate to terrorist financing and the RCMP Criminal Intelligence Directorate, under the National Security Program, investigates every terrorist financing disclosure and will not overlook any credible source of intelligence.

As with all law enforcement activities, whether they are related to terrorism or organized crime and all its dimensions, the availability of additional resources would allow the RCMP to better target specific areas of concern as they arise.

[Translation]

The Hon. the Speaker: Honourable senators, it is now 4 p.m. Pursuant to an Order of the Senate made November 2, 2004, I declare the Senate adjourned.

The Senate adjourned until Thursday, September 29, 2005, at 1:30 p.m.

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

THE SPEAKER

The Honourable Daniel Hays

THE LEADER OF THE GOVERNMENT

The Honourable Jack Austin, P.C.

THE LEADER OF THE OPPOSITION

The Honourable Noël A. Kinsella

OFFICERS OF THE SENATE

CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS

Paul Bélisle

DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES

Gary O'Brien

LAW CLERK AND PARLIAMENTARY COUNSEL

Mark Audcent

USHER OF THE BLACK ROD

Terrance J. Christopher

THE MINISTRY

According to Precedence

(September 28, 2005)

The Right Hon. Paul Martin The Hon. Jacob Austin The Hon. Jean-C. Lapierre The Hon. Ralph E. Goodale The Hon. Anne McLellan

The Hon, Lucienne Robillard

The Hon. Stéphane Dion The Hon. Pierre Stewart Pettigrew The Hon. Andy Scott

The Hon. James Scott Peterson The Hon. Andrew Mitchell

The Hon. William Graham The Hon. Albina Guarnieri The Hon. Reginald B. Alcock

The Hon. Geoff Regan The Hon. Tony Valeri The Hon. M. Aileen Carroll The Hon. Irwin Cotler The Hon. Ruben John Efford The Hon. Liza Frulla

The Hon. Giuseppe (Joseph) Volpe The Hon. Joseph Frank Fontana The Hon. Scott Brison The Hon. Ujjal Dosanjh The Hon. Ken Dryden The Hon. David Emerson The Hon, Belinda Stronach

The Hon. Ethel Blondin-Andrew The Hon. Raymond Chan The Hon. Claudette Bradshaw The Hon. John McCallum The Hon. Stephen Owen

> The Hon. Joseph McGuire The Hon. Mauril Bélanger

> The Hon. Carolyn Bennett The Hon. Jacques Saada

The Hon. John Ferguson Godfrey The Hon. Tony Ianno

Prime Minister

Leader of the Government in the Senate

Minister of Transport Minister of Finance

Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness

President of the Queen's Privy Council for Canada and

Minister of Intergovernmental Affairs

Minister of the Environment Minister of Foreign Affairs

Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians

Minister of International Trade

Minister of Agriculture and Agri-Food and Minister of State (Federal Economic Development Initiative for Northern Ontario)

Minister of National Defence Minister of Veterans Affairs

President of the Treasury Board and Minister responsible

for the Canadian Wheat Board Minister of Fisheries and Oceans

Leader of the Government in the House of Commons

Minister of International Cooperation

Minister of Justice and Attorney General of Canada

Minister of Natural Resources

Minister of Canadian Heritage and Minister responsible for Status of Women

Minister of Citizenship and Immigration

Minister of Labour and Housing

Minister of Public Works and Government Services

Minister of Health

Minister of Social Development

Minister of Industry

Minister of Human Resources and Skills Development and

Minister responsible for Democratic Renewal Minister of State (Northern Development) Minister of State (Multiculturalism)

Minister of State (Human Resources Development)

Minister of National Revenue

Minister of Western Economic Diversification and

Minister of State (Sport)

Minister of the Atlantic Canada Opportunities Agency Minister for Internal Trade, Deputy Leader of the

Government in the House of Commons, Minister responsible for Official Languages and Associate Minister of National Defence

Minister of State (Public Health)

Minister of the Economic Development Agency of Canada for the Regions of Quebec and Minister responsible for La Francophonie

Minister of State (Infrastructure and Communities) Minister of State (Families and Caregivers)

SENATORS OF CANADA

ACCORDING TO SENIORITY

(September 28, 2005)

Senator	Designation	Post Office Address
THE HONOURABLE		
	Venegues Couth	Vancouver, B.C.
Jack Austin, P.C	Vancouver South	Rankin Inlet, Nunavut
Willie Adams	Nunavut	Ottawa Ont
C William Doody	Harbour Main-bell Island	Dt. John S, I the et al.
D . A 1 . Cl = 11	Riggrand Youde	1010IIIO, OIII.
D . 3 C 1 .1 D'4C-1J D C	f littgwg_Vanier	Ottawa, Onc.
N 6' -1 1 TZ : -loss	SOUR SHORE	1 Millian, A 1101
T 1 1 C Cunfetain	Metro Loronio	Toronto, Onc.
A C. Cools	Toronto Centre-York	Toronto, Ont.
631 11 337 11	Inkerman	Ruujjuay, Que.
T : 1 TT - CI	Calgary	Caigai y, Aita.
3.7 TZ A 41.1	Markham	1 Olonto, Ont.
Norman K. Atkins	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.
Ethel Cochrane	Manitoda	Winnipeg, Man.
Mira Spivak	British Columbia	Vancouver, B.C.
Pat Carney, P.C.	Nava Sastia	Saulnierville, N.S.
Gerald J. Comeau	Nova Scotia.	Downsview Ont
Consiglio Di Nino	Ontario	Halifax N.S
D 11 II Oliver	Nova Scotta	Haman, 14.0.
NT-91 A IZimpollo	Fredericion-York-Sundury	1 Tedericton, 1 v.s.
T. I. D. I. I. I. D. C.	Nova Scotia	rialitax, iv.o.
Tours Danneis Vollahov D.C.	Ontario	Sault Ste. Marie, One.
T. T. Communication of the Com	()ntario	Calcuon, Ont.
Wilhart Issanh Vaan	Uliawa	Ottawa, Onc.
I Michael Egreetall	Dartmouth and Eastern Shore	Dai mioum, 14.5.
T C. Inhanon	Winnineg-Intertake	Offini, Man.
A Darmall Androvohuk	Reging	, Regina, Bask.
T Classif Discort	Stadacona	, Oucoco, Que,
Jean-Claude Rivest	Red River	St. Norbert, Man.
Terrance R. Stratton	La Salle.	Montreal, Que.
Marcel Prud nomme, P.C	Saskatchewan.	Macoun, Sask.
Leonard J. Gustatson	Saskatellewall	Saskatoon, Sask.
David Tkachuk	Saskatchewan.	Montreal Que
W. David Angus	Alma	Ouebec Oue
Pierre Claude Nolin	De Salaberry	Manatick Ont
Marjory LeBreton	Ontario	Manla Didge RC
Commoin DC	I angley-Pemperion-Wilsuct	. Maple Ridge, B.C.
T ' D	Tie ia i mraniave	. Lavai, Que.
Change Comptains DC	Manitona	. Victoria Deach, irrain
I and an Deargan	()ntario	. Ottawa, Ott.
T 1 C D	New Briinswick	. Daylield, 14.D.
Danie Lagion Cool	Tracadie	, Dailluist, IV.D.
Kose-Marie Bosier Cool		
Céline Hervieux-Payette, P.C William H. Rompkey, P.C	. Dealoid	

Senator	Designation	Post Office Address
Lorna Milne	Peel County	Brampton Ont
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottowa Ont
Shirley Maneu	Rougemont	Saint I assess O
Willred P. Moore	Stanhope St./Bluenose	Chester NS
Lucie Penin	Shaumagan	Manager 1 O
Fernand Robichaud, P.C	New Brunswick	Saint I avia de Vant NID
Catherine S. Callbeck	Prince Edward Island	Central Redeaug DEI
Mansa Perretti Barth	Repentigny	Pierrefonds One
Serge Joval, P.C	Kennehec	Montreal Oug
Joan Cook	Newfoundland and Labrador	St John's Nifld & Lab
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna RC
Francis William Mahovlich	Toronto	Toronto Ont
Joan Thorne Fraser	De Lorimier	Montroal Oug
Aurelien Gill	Wellington	Machteniatch Pointa Plana One
VIVIENNE FOV	LOTONIO	Toronto Ont
Ione Christensen	Yukon Territory	Whitehorse V T
George Furey	Newfoundland and Labrador	St John's Nifld & Lab
Nick G. Sibbeston	Northwest Territories	Fort Simpson N.W.T.
Tommy Banks	Alberta	Edmonton Alta
Jane Cordy	Nova Scotia	Dartmouth N.S.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Modina S. B. Jailer	British Columbia	North Vancouver RC
Jean Lapointe	Saurel	Magog One
Gerard A. Phalen	Nova Scotia	Glace Ray NS
Joseph A. Day	Saint John-Kennebecasis	Hampton N R
Michel Biron	Mille Isles	Nicolet, Que.
George S. Baker, P.C	Newfoundland and Labrador	Gander, Nfld. & Lab.
Raymond Lavigne	Montarville	Verdun, Que.
David P. Smith, P.C.	Cobourg	Toronto, Ont.
Maria Chaput	Manitoba	Sainte-Anne, Man.
Pana Merchant	Saskatchewan.	Regina, Sask.
Pierrette Kinguette	New Brunswick	Edmundston, N.B.
Percy Downe	Charlottetown	Charlottetown, P.E.I.
Mag Harb	De Lanaudière	Mont-Saint-Hilaire, Que.
Madeleine Diamandan	Ontario	Ottawa, Ont.
Magilyn Tranhalma Caynaell	The Laurentides	Shawinigan, Que.
Terry M. Moreon	New Brunswick	Sackville, N.B.
Tim Mungan	Northend Halifax	Caribou River, N.S.
Claudette Tordif	Ottawa/Rideau Canal	Ottawa, Ont.
Grant Mitchell	Alberta	Edmonton, Alta.
Flaine McCoy	Alberta	Edmonton, Alta.
Robert W. Deterson	Alberta	Calgary, Alta.
Lillian Eva Dvok	Saskatchewan.	Regina, Sask.
Art Eggleton P.C.	Saskatchewan.	Saskatoon, Sask.
Nancy Puth	Ontario	Toronto, Ont.
Romeo Antonius Dollairo	Cluny	Toronto, Ont.
Iames & Cowan	Gulf Nova Scotia	Sainte-Foy, Que.
Andrée Champagne P.C.	Grandville	Figure 1.5.
Hugh Segal	Kingston-Frontenac-Leeds	Vinceton Ont
Larry W Campbell	British Columbia	Vancouver B.C.
Rod A A Zimmer	Manitoba	Winnings Man
Dennis Dawson	Lauzon	Sainta Fay Oug
Yoine Goldstein	Rigaud	Montreal Que
Francis Fox P.C.	Victoria	Montreal Que
Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations N.P.
	THEW DIVINSWICK	rooique riist ivations, iv.b.

SENATORS OF CANADA

ALPHABETICAL LIST

(September 28, 2005)

Compton	Designation	Post Office Address	Political Affiliation
Senator	Designation		
T However and			
THE HONOURABLE		Dankin Inlat Nunavut	Liberal
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Conservative
Andreychuk, A. Raynell	Regina	Regina, Sask	Conservative
Angus, W. David	Alma	Montreal, Que. Toronto, Ont. Vancouver R C	Progressive Conservative
Atkins, Norman K	Markham	Vancouver P.C.	Liheral
Austin, Jack, P.C	Vancouver South	Vancouver, B.C.	Liberal
Bacon, Lise	De la Durantaye	Laval, Que	Liberal
Baker, George S., P.C	Newfoundland and Labrador	Gander, Nfld. & Lab	Liberal
Banks, Tommy	Alberta	. Edmonton, Alta	Liberal
Biron, Michel	Mille Isles	. Nicolet, Que	Liberal
Buchanan, John, P.C	Halifax	. Halifax, N.S	Liberal
Campbell, Larry W	British Columbia	. Vancouver, B.C	Conservative
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	Liberal
Carstairs, Sharon, P.C.	Manitoba	. Victoria Beach, Man	Conservative
Chaput, Maria	Manitoba	. Sainte-Anne, Man	Liberal
Christensen, Ione	Yukon Territory	. Whitehorse, Y.T	Conservative
Cochrane, Ethel	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.	Conservative
Comeau, Gerald J	Nova Scotia	Saulnierville, N.S.	I ihamal
Cordy Jane	Nova Scotia	Dartmouth, N.S.	I ibaral
Cowan James S	Nova Scotia	. Halifax, N.S	Tiberal
Dallaire Roméo Antonius	Gulf	Ste Foy One	Liberal
Day Joseph A	Saint John-Kennebecasis	Hampton, N.B	Liberai
Di Nino Consiglio	Ontario	Downsview, Ont.	Conservative
Doody C William	Harbour Main-Bell Island	St. John's, Nfld. & Lab.	Progressive Conservativ
Downe Percy	Charlottetown	. Charlottetown, P.E.I.	Liberal
Eggleton Art P.C.	Ontario	Toronto, Ont.	Liberai
Fairbairn Joyce P.C.	Lethbridge	Lethbridge, Alta.	Liberal
Ferretti Rarth Marisa	Repentigny	Pierrefonds, Que.	Liberal
Fitzpatrick Ross	Okanagan-Similkameen	Kelowna, B.C.	Liberal
Gill Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Liberal
Grafstein Jerahmiel S	Metro Toronto	Toronto, Ont	Liberal
Guetafeon Leonard I	Saskatchewan	Macoun, Sask	Conservative
Harb Mac	Ontario	Ottawa, Ont	Liberal
Hous Daniel Sneaker	Calgary	Calgary, Alta	Liberal
Harrioux Poyotta Colina I	P.C. Redford	Montreal, Que	Liberal
	Prince Edward Island British Columbia		

Senator	Designation	Post Office Address	Political
	- Congration	71001655	Affiliation
Ishmoon Ionio C	XX7:: X		
Johnson, Janis G	Winnipeg-Interlake	. Gimli, Man	. Conservative
Joyal, Serge, P.C.	. Kennebec	Montreal, Que.	. Liberal
Kellener, James Francis, P.C.	. Ontario	Sault Ste Marie Ont	Componies
Kenny, Colin	Rideau	Ottawa Ont	T. Hannat
Keon, Wilbert Joseph	. Ottawa	Ottawa Ont	Camananation
Kinsella, Noel A.	Fredericton-York-Sunbury	Fredericton N R	Camaaminting
Kirby, Michael	South Shore	Halifax N.S.	Liboral
Lapointe, Jean	Saurel	Magng Oue	Libonal
Lavigne, Raymond	Montarville	Verdun Que	Liboral
Legreton, Mariory	Ontario	Manotick Ont	Componentia
Losier-Cool, Rose-Marie	. I racadie	Rathurst N.R.	Liboral
Lovelace Nicholas, Sandra	. New Brunswick	Tobique First Nations N R	Liberal
Maheu, Shirley	. Rougemont	Saint-Laurent Que	Liboral
Manoviich, Francis William	. loronto	Toronto Ont	Liberal
Massicotte, Paul J	. De Lanaudière	Mont-Saint-Hilaire Oue	Liboral
McCoy, Elaine	Alberta	Calgary, Alta.	Progressive Companyative
Meignen, Michael Arthur	.St. Marvs	Toronto Ont	Concornation
Mercer, Terry M.	Northend Halifax	Caribou River, N.S.	I ibanal
Merchant, Pana	Saskatchewan	Regina, Sask.	Liberal
Milne Lorna	Peel County	Brampton, Ont.	Liberal
Mitchell Grant	Alberta	Edmonton, Alta.	Liberal
Moore Wilfred P	Stanhane St /Pluanasa	Chester, N.S.	. Liberai
Munson, Jim	Ottawa/Pideau Canal	Ottawa, Ont.	. Liberal
Murray Lowell P.C	Dakanham	Ottowa, Ont	. Liberal
Nancy Puth	Chart	Ottawa, Ont.	Progressive Conservative
Nolin Diagra Claude	De Calabanna	Toronto, Ont.	Progressive Conservative
Oliver Deneld II	De Salaberry	Quebec, Que.	. Conservative
Passas I and	Nova Scotia	Halifax, N.S.	. Conservative
Périn I	Ontario	Ottawa, Ontario	. Liberal
Peters Debat W	.Snawinegan	Montreal, Que.	. Liberal
Peterson, Robert W	.Saskatchewan	Regina, Sask	. Liberal
Phalen, Gerard A	Nova Scotia	Glace Bay, N.S.	Liberal
Pittield, Peter Michael, P.C.	.Ottawa-Vanier	Ottawa Ont	Independent
Plamondon, Madeleine	.The Laurentides	Shawinigan, Que.	Independent
Poulin, Marie-P	.Nord de l'Ontario/Northern Ontario	. Ottawa Ont	Liberal
Poy, Vivienne	.Toronto	Toronto, Ont.	Liberal
Prud'homme, Marcel, P.C	.La Salle	Montreal One	Independent
Ringuette, Pierrette	.New Brunswick	Edmundston N B	Liberal
Rivest, Jean-Claude	Stadacona	Quebec, Que	Independent
Robichaud, Fernand, P.C	.New Brunswick	Saint-Louis-de-Kent N B	Liberal
Rompkey, William H., P.C	.North West River, Labrador	North West River, Labrador, Nfld. & Lab.	Liberal
St. Germain, Gerry, P.C.	.Langley-Pemberton-Whistler	Maple Ridge, B.C.	Conservative
Segal, Hugh	.Kingston-Frontenac-Leeds	Kingston, Ont.	Conservative
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Liberal
Smith, David P. P.C.	Cohourg	Toronto, Ont.	Liberal
Spivak, Mira	Manitoba	Winnipeg, Man.	Independent
Stollery, Peter Alan	Bloor and Vonge	Toronto, Ont.	Liberal
Stratton Terrance R	Red River	St. Norbert, Man.	Consequative
Tardif Claudette	Alberta	Edmonton, Alta.	Liberal
Tkachuk David	Sadratahawan	Colorte on Seel-	Liberal
Tranholma Councell Marilana	Saskatchewan	Saskatoon, Sask	Conservative
West Charlie Warilyn .	. New Brunswick	Sackville, N.B.	Liberal
7immer Ded A.A.	Inkerman	Kuujjuaq, Que	Liberal

SENATORS OF CANADA

BY PROVINCE AND TERRITORY

(September 28, 2005)

ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
Tamall Mannay D.C.	Pakenham	Ottawa
D-t Alon Stollows	Rigor and Yonge	Toronto
Peter Alan Stollery	Ottawa-Vanier	Ottawa
I Jerahmiel S. Grafstein	Metro Toronto	Toronto
5 Anne C. Cools	m	Toronto
Calle Vanny	Rideau	Ottawa
Norman K. Atkins	Markham	Toronto
/ Norman K. Atkins	Ontario	Downsview
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
,	0 40 30	Caledon
O John Trevor Eyton		Ottawa
Wilbert Joseph Keon		Toronto
2 Michael Arthur Meighen		Manotick
3 Marjory LeBreton	Ontario	Ottawa
4 Landon Pearson	Peel County	Brampton
S Lorna Willing	Northern Ontario	Ottawa
6 Marie-P. Poulin	Toronto	Toronto
/ Francis William Manovilen	Toronto	
8 Vivienne Poy	Cobourg	Toronto
9 David P. Smith, P.C	Ontario	Ottawa
0 Mac Harb	Ottawa/Rideau Canal	Ottawa
I Jim Munson	Ontario	Toronto
2 Art Eggleton, P.C	Cluny	Toronto
3 Nancy Ruth	Kingston-Frontenac-Leeds	Kingston

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

	Senator	Designation	Post Office Address
	THE HONOURABLE		
3 4 4 4 5 6 7 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Jean-Claude Rivest Marcel Prud'homme, P.C W. David Angus Pierre Claude Nolin Lise Bacon Céline Hervieux-Payette, P.C. Shirley Maheu Lucie Pépin Marisa Ferretti Barth Serge Joyal, P.C. Joan Thorne Fraser Aurélien Gill Jean Lapointe Michel Biron Raymond Lavigne Paul J. Massicotte Madeleine Plamondon Roméo Antonius Dallaire Andrée Champagne, P.C. Dennis Dawson Yoine Goldstein	Inkerman De la Vallière Stadacona La Salle Alma De Salaberry De la Durantaye Bedford Rougemont Shawinegan Repentigny Kennebec De Lorimier Wellington Saurel Milles Isles Montarville De Lanaudière The Laurentides Gulf Grandville Lauzon Rigaud Victoria	Montreal Quebec Montreal Montreal Quebec Laval Montreal Ville de Saint-Laurent Montreal Pierrefonds Montreal Montreal Montreal Montreal Montreal Montreal Montreal Montreal Monteral Monteral Mashteuiatsh, Pointe-Bleue Magog Nicolet Verdun Mont-Saint-Hilaire Shawinigan Sainte-Foy Saint-Hyacinthe Ste-Foy Montreal

SENATORS BY PROVINCE-MARITIME DIVISION

NOVA SCOTIA—10

	Senator	Designation	Post Office Address
5 6 7 8	THE HONOURABLE Michael Kirby Gerald J. Comeau Donald H. Oliver John Buchanan, P.C. J. Michael Forrestall Wilfred P. Moore Jane Cordy Gerard A. Phalen Terry M. Mercer James S. Cowan	Nova Scotia Nova Scotia Halifax Dartmouth and the Eastern Shore Stanhope St./Bluenose Nova Scotia Nova Scotia Northend Halifax	Halifax Halifax Dartmouth Chester Dartmouth Glace Bay Caribou River
_		NEW BRUNSWICK—10	
	Senator	Designation .	Post Office Address

THE HONOURABLE

1 Eymard Georges Corbin 2 Noël A. Kinsella 3 John G. Bryden 4 Rose-Marie Losier-Cool 5 Fernand Robichaud, P.C. 6 Joseph A. Day 7 Pierrette Ringuette 8 Marilyn Trenholme Counsell 9 Sandra Lovelace Nicholas 1 Grand-Sault 1 Fredericton-York-Sunbury 1 New Brunswick 2 Saint-Louis-de-Kent 3 Saint John-Kennebecasis, New 1 New Brunswick 3 New Brunswick 4 New Brunswick 5 Sandra Lovelace Nicholas 6 New Brunswick 7 New Brunswick 8 New Brunswick 9 Sandra Lovelace Nicholas 8 New Brunswick 9 New Brunswick	Bayfield Bathurst Saint-Louis-de-Kent Brunswick Hampton Edmundston Sackville Tobique First Nations
--	--

PRINCE EDWARD ISLAND-4

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2	Elizabeth M. Hubley	Prince Edward Island Charlottetown	Kensington

Senator

Senator

SENATORS BY PROVINCE-WESTERN DIVISION

MANITOBA—6

Senator	Designation	Post Office Address
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Mira Spivak. 2 Janis G. Johnson 3 Terrance R. Stratton 4 Sharon Carstairs, P.C. 5 Maria Chaput 6 Rod A.A. Zimmer	Winnipeg-Interlake Red River Manitoba Manitoba	Gimli St. Norbert Victoria Beach Sainte-Anne

BRITISH COLUMBIA—6

Post Office Address

Post Office Address

The Honourable		
 1 Jack Austin, P.C. 2 Pat Carney, P.C. 3 Gerry St. Germain, P.C. 4 Ross Fitzpatrick 5 Mobina S.B. Jaffer 6 Larry W. Campbell 	British Columbia Langley-Pemberton-Whistler Okanagan-Similkameen British Columbia	Vancouver Maple Ridge Kelowna North Vancouver

Designation

SASKATCHEWAN-6

	THE HONOURARIE		
3	A. Raynell Andreychuk Leonard J. Gustafson David Tkachuk Pana Merchant Robert W. Peterson	Regina Saskatchewan Saskatchewan Saskatchewan Saskatchewan Saskatchewan Saskatchewan	Macoun Saskatoon Regina Regina

Designation

ALBERTA—6

	Senator	Designation	Post Office Address
2 3 4 5	THE HONOURABLE Daniel Hays, Speaker Joyce Fairbairn, P.C. Tommy Banks Claudette Tardif Grant Mitchell Elaine McCoy	Calgary Lethbridge Alberta Alberta	Lethbridge Edmonton Edmonton Edmonton

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND AND LABRADOR—6

Senator	Designation	Post Office Address			
THE HONOURABLE					
1 C. William Doody	Harbour Main-Bell Island Newfoundland and Labrado North West River, Labrado Newfoundland and Labrado Newfoundland and Labrado Newfoundland and Labrado	r North West River, Labrador St. John's St. John's			
NORTHWEST TERRITORIES—1					
Senator	Designation	Post Office Address			
THE HONOURABLE 1 Nick G. Sibbeston	Northwest Territories	Fort Simpson			
NUNAVUT—1					
Senator	Designation	Post Office Address			
THE HONOURABLE 1 Willie Adams	Nunavut	Rankin Inlet			
YUKON TERRITORY—1					
Senator	Designation	Post Office Address			
THE HONOURABLE 1 Ione Christensen	Yukon Territory	Whitehorse			

ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of September 28, 2005)

Ex Officio Member

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Chair: Honourable Senator Sibbeston

Deputy Chair: Honourable Senator St. Germain

Honourable Senators:

Angus,

Christensen,

Austin, (or Rompkey) Buchanan,

Fitzpatrick, Gustafson, * Kinsella,

(or Stratton)

Lovelace Nicholas,

Léger, Pearson,

Peterson,

Sibbeston,

St. Germain, Watt,

Zimmer.

Original Members as nominated by the Committee of Selection

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Deputy Chair: Honourable Senator Gustafson

Honourable Senators:

lustin, (or Rompkey) Callbeck,

Gill.

Gustafson, Hubley, Kelleher,

* Kinsella.

(or Stratton) Mercer.

Oliver,

Peterson, Tkachuk.

Mitchell,

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Callbeck, Fairbairn, Gustafson, Harb, Hubley, Kelleher, *Kinsella (or Stratton), Mahovlich, Mercer, Oliver, Ringuette, Sparrow, Tkachuk.

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Deputy Chair: Honourable Senator Angus

Honourable Senators:

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Biron.

Fitzpatrick, Harb.

Kelleher. * Kinsella.

Meighen, Moore,

Hervieux-Payette,

(or Stratton)

Oliver, Plamondon.

Grafstein,

Massicotte,

Original Members as nominated by the Committee of Selection

Angus, *Austin, (or Rompkey), Biron, Fitzpatrick, Grafstein, Harb, Hervieux-Payette, Kelleher, *Kinsella (or Stratton), Massicotte, Meighen, Moore, Plamondon, Tkachuk.

CONFLICT OF INTEREST FOR SENATORS

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Deputy Chair: Honourable Senator Andreychuk

Honourable Senators:

Andreychuk Angus, * Austin,

(or Rompkey)

Carstairs,

Joyal,

* Kinsella,

(or Stratton)
Robichaud.

Original Members as nominated by the Committee of Selection

Andreychuk, Angus *Austin, (or Rompkey) Carstairs, Joyal, *Kinsella (or Stratton), Robichaud.

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Chair: Honourable Senator Banks

Deputy Chair: Honourable Senator Cochrane

Honourable Senators:

(or Rompkey)

Adams, Angus,

* Austin,

Banks,

Buchanan, Christenser

Christensen, Cochrane.

Finnerty,

Gustafson,

Kenny,

* Kinsella,

(or Stratton)

Lavigne, Milne,

Spivak.

Original Members as nominated by the Committee of Selection

Adams, Angus, *Austin, (or Rompkey), Banks, Buchanan, Christensen, Cochrane, Finnerty, Gill, Gustafson, *Kinsella (or Stratton), Lavigne, Milne, Spivak.

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Austin,
(or Rompkey)

Comeau,

Cowan, Hubley,

Johnson,

* Kinsella

(or Stratton) Mahovlich,

Meighen,

Merchant,

Phalen, St. Germain,

Watt.

Original Members as nominated by the Committee of Selection

Adams, *Austin, (or Rompkey), Bryden, Comeau, Cook, Fitzpatrick, Hubley, Johnson, *Kinsella (or Stratton), Mahovlich, Meighen, Phalen, St. Germain, Watt.

FOREIGN AFFAIRS

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Deputy Chair: Honourable Senator Di Nino

Ionourable Senators:

Andreychuk, Austin, (or Rompkey)

Carney,

Corbin, De Bané. Di Nino, Downe,

Eyton, Grafstein, * Kinsella, (or Stratton)

Mahovlich. Prud'homme, Robichaud, Stollery.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin, (or Rompkey), Carney, Corbin, De Bané, Di Nino, Downe, Eyton, Grafstein, *Kinsella (or Stratton), Poy, Prud'homme, Robichaud, Stollery.

HUMAN RIGHTS

Chair: Honourable Senator Andreychuk

Deputy Chair: Honourable Senator Pearson

Ionourable Senators:

Andreychuk, Austin, (or Rompkey)

Baker. Carstairs, Ferretti Barth.

Kinsella, (or Stratton) LeBreton,

Losier-Cool. Oliver, Pearson, Poy.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin (or Rompkey), Carstairs, Ferretti Barth, *Kinsella (or Stratton), LaPierre, LeBreton, Oliver, Pearson, Poulin, Poy.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Furey

Deputy Chair: Honourable Senator Nolin

Honourable Senators:

Austin, (or Rompkey) Banks.

Comeau.

Cook,

Day, De Bané, Di Nino,

Furey, Jaffer,

Kenny, Keon,

* Kinsella, (or Stratton) Massicotte,

Nolin, Poulin. Smith. Stratton.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Banks, Cook, Day, De Bané, Di Nino, Furey, Jaffer, Kenny, Keon, *Kinsella (or Stratton), Lynch-Staunton, Massicotte, Nolin, Poulin, Robichaud, Stratton.

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Deputy Chair: Honourable Senator Eyton

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* Austin,

(or Rompkey)

Eyton, Joyal,

* Kinsella,

(or Stratton)

Mercer, Milne,

Nolin, Pearson, Ringuette,

Rivest Sibbeston.

Bacon, Cools,

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin, (or Rompkey), Bacon, Cools, Eyton, Joyal, *Kinsella (or Stratton), Mercer, Milne, Nolin, Pearson, Ringuette, Rivest, Sibbeston.

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Joint Chair: Honourable Senator Trenholme Counsell

Vice-Chair:

Honourable Senators:

Lapointe, LeBreton, Poy,

Stratton,

Trenholme Counsell.

Original Members agreed to by Motion of the Senate Lapointe, LeBreton, Poy, Stratton, Trenholme Counsell.

NATIONAL FINANCE

Chair: Honourable Senator Oliver

Deputy Chair: Honourable Senator Day

Honourable Senators:

Austin,

Comeau,

(or Rompkey) Biron, Cools,

Day, Downe,

Ferretti Barth,

Harb,
* Kinsella,
(or Stratton)

Mitchell,

Murray, Oliver, Ringuette, Stratton.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Biron, Comeau, Cools, Day, Ferretti Barth, Finnerty, Harb, *Kinsella (or Stratton), Mahovlich, Murray, Oliver, Ringuette, Stratton.

NATIONAL SECURITY AND DEFENCE

Chair: Honourable Senator Kenny

Deputy Chair: Honourable Senator Forrestall

Ionourable Senators:

Atkins.

Banks,

ustin, (or Rompkey) Cordy,

Day, Forrestall, Kenny,

* Kinsella, (or Stratton) Meighen,

Munson, Nolin.

Original Members as nominated by the Committee of Selection

Atkins, *Austin, (or Rompkey), Banks, Cordy, Day, Forrestall, Kenny, *Kinsella (or Stratton), Lynch Staunton, Meighen, Munson.

VETERANS AFFAIRS

(Subcommittee of National Security and Defence)

Chair: Honourable Senator Meighen

Deputy Chair: Honourable Senator Day

Ionourable Senators:

tkins,

ustin, (or Rompkey) Day,

Forrestall,

Kenny,

* Kinsella,

(or Stratton)

Meighen.

OFFICIAL LANGUAGES

Chair: Honourable Senator Corbin

Deputy Chair: Honourable Senator Buchanan

Ionourable Senators:

ustin,

(or Rompkey) uchanan,

Chaput,

Comeau,

Corbin,

Jaffer,

* Kinsella,

(or Stratton)

Léger,

Murray, Tardif.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Chaput, Comeau, Corbin, Jaffer, *Kinsella (or Stratton), Lavigne, Léger, Meighen, Merchant, St. Germain.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

Chair: Honourable Senator Smith

Deputy Chair:

Honourable Senators:

(or Rompkey)

Andreychuk, * Austin,

Chaput,

Cools,

Di Nino,

Fraser,

Furey, Jaffer, Johnson, Joyal,

* Kinsella, (or Stratton) LeBreton,

Maheu, Milne, Robichaud,

Smith.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin, (or Rompkey), Chaput, Cools, Di Nino, Fraser, Furey, Jaffer, Joyal, *Kinsella (or Stratton), LeBreton, Lynch Staunton, Maheu, Milne, Poulin, Robichaud, Smith.

SCRUTINY OF REGULATIONS (Joint)

Joint Chair: Honourable Bryden

Vice-Chair:

Honourable Senators:

Baker,

Bryden,

Kelleher.

Nolin.

Biron,

Hervieux-Payette,

Moore,

Original Members as agreed to by Motion of the Senate

Baker, Biron, Bryden, Hervieux-Payette, Kelleher, Lynch-Staunton, Moore, Nolin.

SELECTION

Chair: Honourable Senator Losier-Cool

Deputy Chair: Honourable Senator LeBreton

Honourable Senators:

* Austin,

(or Rompkey) Bacon,

Carstairs,

Comeau,

Fairbairn,

* Kinsella,

(or Stratton) LeBreton,

Losier-Cool,

Rompkey, Stratton,

Tkachuk.

Original Members agreed to by Motion of the Senate

*Austin, (or Rompkey), Bacon, Carstairs, Comeau, Fairbairn, *Kinsella (or Stratton), LeBreton, Losier-Cool, Rompkey, Stratton, Tkachuk.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

Chair: Honourable Senator Kirby

Deputy Chair: Honourable Senator Keon

Ionourable Senators:

Austin, (or Rompkey) Callbeck,

Cochrane,

Cordy, Fairbairn, Gill, Johnson,

Keon,
* Kinsella,
(or Stratton)
Kirby,

LeBreton, Pépin, Robichaud,

Trenholme Counsell.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Callbeck, Cochrane, Cook, Cordy, Fairbairn, Gill, Johnson, Keon, *Kinsella (or Stratton), Kirby, LeBreton, Morin, Pépin.

TRANSPORT AND COMMUNICATIONS

Chair: Honourable Senator Fraser

Deputy Chair: Honourable Senator Tkachuk

Ionourable Senators:

(or Rompkey)
Carney,

Chaput,

Dawson, Eyton,

Fraser,
Johnson,

* Kinsella, (or Stratton)

Merchant, Munson, Phalen.

Tkachuk, Trenholme Counsell.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Baker, Carney, Eyton, Fraser, Gill, Johnson, *Kinsella (or Stratton), LaPierre, Merchant, Munson, Phalen, Tkachuk, Trenholme Counsell.

THE SPECIAL SENATE COMMITTEE ON THE ANTI-TERRORISM ACT

chair: Honourable Senator Fairbairn

Deputy Chair: Kelleher

Ionourable Senators:

Andreychuk, Austin, (or Rompkey) Day, Fairbairn, Fraser, Jaffer,

Joyal, Kelleher, * Kinsella, (or Stratton)

Smith.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin, P.C (or Rompkey), Day, Fairbairn, Fraser, Harb, Jaffer, Joyal, *Kinsella (or Stratton), Lynch-Staunton.

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Debates of the Senate

1st SESSION

38th PARLIAMENT

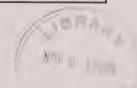
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NUMBER 87

OFFICIAL REPORT (HANSARD)

Thursday, September 29, 2005

THE HONOURABLE DANIEL HAYS SPEAKER



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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193

THE SENATE

Thursday, September 29, 2005

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

[Translation]

SENATORS' STATEMENTS

THE HONOURABLE DENNIS DAWSON THE HONOURABLE FRANCIS FOX

CONGRATULATIONS ON APPOINTMENT TO THE SENATE

Hon. Lucie Pépin: Honourable senators, it gives me great pleasure to speak today in light of the fact that, yesterday, we welcomed eight new colleagues. I hail these appointments. I can honestly say that it looks to be a very good crop for the Senate this fall. I want, however, to say more about two of our new Quebec colleagues whom I know well: Senator Francis Fox and Senator Dawson. Both are long-time friends whom I am now happy to welcome to this chamber.

As the saying goes, there is no such thing as random chance.

[English]

Yesterday, the very day they were sworn in as senators, was also the fifth anniversary of the death of former Prime Minister Pierre Elliott Trudeau. The statesman who left such a strong mark on our country had a special bond with these two new senators and with other colleagues.

[Translation]

Mr. Francis Fox began his career as a special assistant in the Prime Minister's Office under Pierre Elliott Trudeau before being elected to the House of Commons in 1972. He served in the Trudeau cabinet as Solicitor General of Canada, Secretary of State and Minister of Communications.

In 1977, Mr. Dennis Dawson was elected as one of the youngest members of Parliament in Canadian history. Now he is one of the youngest senators. He served as the Parliamentary Secretary to the Minister of Labour as well as Minister of Employment and Immigration.

[English]

I know that Pierre Elliott would be proud to see his two young "poulains québécois" are now senators. He held them both in high regard for their abilities and their opinions, and we know that they have only gotten better with age.

You are part of his living legacy to our country. I am certain that at this moment, although he has an entire planet to gaze over, Pierre Elliott, sitting high above us on a cloud, has his eyes fixed

on the Senate. He looks over our chamber and recognizes so many familiar faces. His former colleagues and advisers are now the cornerstone of the Senate. He must still feel right at home on Parliament Hill.

[Translation]

Honourable senators, I have no doubt whatsoever that Pierre Elliott is watching over us. And he must be getting a real kick out of this.

[English]

RACIAL DISCRIMINATION

STRAINED RACE RELATIONS IN AFTERMATH OF HURRICANE KATRINA

Hon. Donald H. Oliver: Honourable senators, the recent flooding and devastation left in New Orleans by Hurricane Katrina presents an unprecedented challenge to the United States, the effect of which will be felt for decades to come. It has real significance for Canada as well. The greatest challenge may be repairing race relations in America's South that have grown strained from the suffering and loss felt by Louisiana's Black population.

The United States is 18.5 per cent Black. New Orleans is 66.7 per cent Black. Blacks in New Orleans earn, on average, \$11,332 annually. Whites in New Orleans earn on average \$31,971 annually.

Whites and Blacks also had sharply differing reactions to the U.S. government's response to Hurricane Katrina. According to *The New York Times*, over two thirds of African Americans said President Bush's response to the crisis would have been faster if most of the victims had been White.

Honourable senators, there are political commentators who say that several questions remain unanswered. Why did it take President Bush four days to visit New Orleans? Why did the President during his first visit to New Orleans comment on the plight of white senator Trent Lott's Mississippi mansion by stating: "Out of the rubble of Trent Lott's house ... there's going to be a fantastic house. And I'm looking forward to sitting on the porch."

What about the 200,000 forgotten Black people who will not be able to return to New Orleans and rebuild their homes, even if they wanted to?

The mayor of New Orleans, Ray Nagin, who is Black, has stated that he expects the city's population after reconstruction to be about 250,000 people. Honourable senators, I wonder what percentage of the 200,000 forgotten Black people will be able to return to New Orleans after reconstruction. I wonder if Blacks will continue to comprise 66.7 per cent of that city.

Jill Mahoney and Alan Freeman of *The Globe and Mail* said it best in their feature story of September 17 in reference to when the new New Orleans emerges over the next decade. The headline read, "Rebuilt city likely to be a lot smaller — and whiter."

Ken Wiwa put it this way in his September 10 column in *The Globe and Mail*: "It is a sobering lesson, though, that the so-called richest nation in the world seems apparently indifferent to the welfare of a large proportion of its citizens."

Honourable senators, I wish to conclude by asking this question: If a similar tragedy occurred in a major Canadian city — Toronto, Montreal, Vancouver or Halifax — would the results be the same? It is my intention to talk more about this matter when I address the inquiry under my name later today.

USHER OF THE BLACK ROD

CONGRATULATIONS ON EFFORTS OF SUPPORT FOR EVENTS TO FUND CANCER RESEARCH

Hon. Jim Munson: Honourable senators, I think that Pierre Trudeau would be smiling if he knew that Francis Fox, Dennis Dawson and Jim Munson were sitting in the same place on a day like today. It is a wonderful thing.

• (1340)

I would like to take this opportunity to acknowledge the wonderful work of someone who is a constant companion to all of us. We do not often take the time to publicly praise those with whom we work, but today I would like to recognize this inspired individual, the Usher of the Black Rod.

Honourable senators, two weeks ago I had the opportunity to witness Mr. Terrance Christopher hosting 5,000 runners here on Parliament Hill. The 5,000 children were here as part of the 25th anniversary celebrations of Terry Fox's courageous run. As Senator Prud'homme and I watched Mr. Christopher and the way in which he addressed the crowd, his enthusiasm, his passion and caring for the cause of fighting cancer, what was clear to me was that these emotions had not waned in the 25 years since we first watched Terry Fox.

What I also learned is how instrumental Mr. Christopher was in promoting Terry Fox's original Marathon of Hope—something that honourable senators may not know. As thencampaign chairman of the Canadian Cancer Society in Eastern Ontario, Mr. Christopher watched Terry Fox dip his artificial leg into the ocean off the coast of Newfoundland. He then went on to persuade the Canadian Cancer Society to sponsor the marathon, and worked tirelessly to promote the marathon once it reached Eastern Ontario, even going so far as to arrange a meeting between Terry Fox and Pierre Trudeau here in Ottawa.

Since 1980, as most of you know, the annual Terry Fox run has generated over \$340 million. Honourable senators, it is safe to say that without the Usher's tireless efforts at promoting the original Marathon of Hope, that figure would be much lower. An article in last weekend's *Globe and Mail* highlighted the importance of such fundraising efforts: Every seven minutes, two Canadians are

diagnosed with cancer, and one dies almost as often. In 20 years, as the population grows and ages, two will be diagnosed every five minutes, and one will die. The efforts of Mr. Christopher and his colleagues to fund cancer research are increasingly important as the creation of a new, national cancer strategy is still a long way off.

Honourable senators, please join with me today in congratulating our devoted colleague Terrance Christopher.

Hon. Senators: Hear, hear!

WORLD MENTAL HEALTH DAY

Hon. Ethel Cochrane: Honourable senators, on October 10 Canadians will join people around the world in observing World Mental Health Day. For the last 13 years, the World Federation for Mental Health and the World Health Organization have promoted this special day in their efforts to encourage global mental health education, awareness and advocacy.

The World Health Organization estimates that over 450 million people worldwide are affected by mental, neurological or behavioural problems at any given time. Clearly, this is a very serious global issue. However, it is also one of fundamental importance here at home.

Throughout its study on mental health, mental illness and addiction in Canada, the Standing Senate Committee on Social Affairs, Science and Technology has heard compelling, heartwrenching testimony from many Canadians who have had experience with mental illness. These personal stories appear all the more poignant when taken together with the existing data. The issue of suicide is one such example. While it must be noted that suicidal behaviour is not a mental illness in itself, it is well documented that over 90 per cent of suicide victims suffer mental illness or substance use disorder.

Honourable senators, mental illness not only carries steep social costs but an array of economic ones. According to the Canadian Mental Health Association, disability represents anywhere from 4 to 12 per cent of payroll costs in Canada. In fact, mental health claims, especially for depression, now rank as the fastest growing category of disability costs in our country. Each year, our country loses billions of dollars in productivity due to depression, anxiety and substance abuse. A 1993 estimate places the direct cost of lost productivity at more than \$11 billion. In 1998, Health Canada conservatively estimated the economic burden produced by mental health problems in this country at \$14.4 billion annually.

Honourable senators, just as monsters live and grow in the dark in children's stories, so, too, do social misconceptions and stigmas such as those that surround mental health. In recognition of this special day, I encourage honourable senators to do their part in raising public awareness and understanding of mental health. We must shed light on this powerful issue and inspire Canadians to do the same. Only then will we begin breaking down the many obstacles imposed by stigma.

THE LATE HONOURABLE JAMES JEROME

Hon. Marie-P. Poulin: Honourable senators, from time to time we in this chamber rise to pay homage to individuals who, in the course of their lives, rise above normal expectations and enter into a class of their own. One such person was the Honourable James Jerome, former Speaker of the House of Commons, whose passing in August at the age of 72 saddened all who had been fortunate to know him.

Although born in Kingston, he set up practice as a lawyer in Sudbury, where he distinguished himself through his commitment to Northern Ontario. He got his political feet wet on city council in the 1960s before making the leap to Ottawa in the 1968 federal election. Upon his retirement as a parliamentarian, he accepted an appointment to the Federal Court.

Honourable senators, in listening to and reading the obituary tributes, it was evident to me that this man, whom I came to know as a friend, was keenly respected and remembered for his fundamental decency, his warmth, his jocularity, his down-to-earth manner and his innate fairness. Evidence of this can be found in his being the first Speaker of the House of Commons, and a Liberal, to serve while being a member of the opposition.

Though tagged as being unpretentious, Jim was far from dull—a fact attested to by those who shimmied and crooned at his piano-playing parties, sometimes alongside the late Hagood Hardy, got walloped at bridge or were dazzled by his legendary memory.

Honourable senators, I would like to extend the condolences of all of us to his wife, Barry, and their children, Mary Lou, Paul, Jim junior and Megan.

FINANCE

VERACITY OF BUDGETS

Hon. Gerald J. Comeau: Honourable senators, as parliamentarians, we have little choice other than to accept the numbers provided to us by the Minister of Finance upon tabling a budget or fiscal update. If the government withholds information or misrepresents planned accounting, then we are being misled, albeit when the government uses what it calls "the consensus of outside economists." We rely upon the Minister of Finance's numbers as we debate whether the new initiatives in the budget are affordable, as we debate legislation, as we debate whether adequate attention is being paid to paying down the debt and as we present our own case for specific measures in the forthcoming budget.

However, we cannot have an informed debate about whether the government should spend more or less, or whether tax relief is affordable, if the numbers are a fabrication. In this regard, we should all be concerned by what we have come to call the "junk accounting" that followed last February's budget. We were told that the surplus would come in at \$3 billion. When the figures for the 12-month period ending March were presented, the government had a surplus of just under \$10 billion, which we were told would be whittled down by various year-end accounting adjustments. Those year-end adjustments were quite steep, bringing the final surplus down to a razor-thin \$1.6 billion.

There are three differences between the fiscal plan as set out in the budget and the final numbers that stand out in particular. First, there is \$1 billion in assistance for farmers. We fully accept that this was needed, but this need did not arise during the fiveweek period between February 23 and the announcement of March 29. Why was it not in the budget?

• (1350)

Second, there is a \$2.3-billion accounting charge against Atomic Energy of Canada Limited for potential environmental liabilities, up \$800 million from what we are now told was a \$1.5 billion figure built into the fiscal plan. However, nowhere in the budget is this item to be found, even as a potential \$1.5-billion liability. Why was the government unwilling to disclose in its budget documents a planned accounting hit that it was fully aware it had to take?

Finally, there is a major difference in planned accounting of the offshore accord. The fiscal plan tabled with the budget showed this being booked over several years. Only \$165 million was to be charged to last year, but now we are told that the charge was the full \$2.8 billion, the result of consultations with the Auditor General.

Knowing the correct accounting would not have affected our support for this initiative, but it would have provided a different framework from which to assess the rest of the budget. We are left to wonder why the Auditor General was not consulted about the planned accounting before the fiscal plan was presented to Parliament. More seriously, we are left to wonder whether those who prepared the fiscal plan even understand the government's accounting rules or whether they were simply playing games with the numbers presented to Parliament.

Concern about the accuracy of the department's numbers has led the Finance Committee in the other place to engage outside experts to advise on the state of the government's finances. Indeed, distrust for the forecast presented to Parliament has prompted some to call for an independent accounting office at arm's-length to the executive, similar to the Congressional Budget Office in the United States.

I will finish my remarks at a future time, honourable senators.

ROUTINE PROCEEDINGS

PUBLIC ACCOUNTS OF CANADA 2005

TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, a document entitled *Public Accounts of Canada 2005*, Volumes 1, 2 and 3.

COMMISSIONER OF THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

2005 ANNUAL REPORT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, a copy of a document from the Office of the Auditor General entitled 2005 Report of the Commissioner of the Environment and Sustainable Development.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TWELFTH REPORT OF COMMITTEE PRESENTED

Hon. George J. Furey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, September 29, 2005

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

TWELFTH REPORT

Your Committee has approved Supplementary Estimates (A) for the fiscal year 2005-2006 and recommends their adoption. (Appendix A)

Your Committee notes that the proposed Supplementary Estimates total \$1,449,600.

Respectfully submitted,

GEORGE J. FUREY Chair

(For text of budget, see today's Journals of the Senate, Appendix A, p. 1168.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Furey, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

FOREIGN AFFAIRS

BUDGET AND AUTHORITY TO ENGAGE SERVICES—REPORT OF COMMITTEE ON STUDY OF INTERNATIONAL POLICY STATEMENT PRESENTED

Hon. Peter A. Stollery, Chair of the Standing Senate Committee on Foreign Affairs, presented the following report:

Thursday, September 29, 2005

The Standing Senate Committee on Foreign Affairs has the honour to present its

SEVENTH REPORT

Your Committee, which was authorized by the Senate on Wednesday June 8, 2005, to examine the *International Policy Statement*, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its study.

Pursuant to section 2(1)(c) of Chapter 3:06 of the Senate Administrative Rules, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

CONSIGLIO DI NINO Deputy Chair

(For text of budget, see today's Journals of the Senate, Appendix B, p. 1171.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Stollery, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

BUDGET—REPORT OF COMMITTEE ON STUDY OF MATTERS RELATING TO AFRICA PRESENTED

Hon. Peter A. Stollery, Chair of the Standing Senate Committee on Foreign Affairs, presented the following report:

Thursday, September 29, 2005

The Standing Senate Committee on Foreign Affairs has the honour to present its

EIGHTH REPORT

Your Committee, which was authorized by the Senate on Wednesday December 8, 2004, to examine and report on the development and security challenges facing Africa; the response of the international community to enhance that continent's development and political stability; Canadian foreign policy as it relates to Africa and other matters, respectfully requests the approval of supplementary funds for the fiscal year 2005-2006.

Pursuant to section 2(1)(c) of Chapter 3:06 of the Senate Administrative Rules, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

PETER A. STOLLERY Chair

(For text of budget, see today's Journals of the Senate, Appendix C, p. 1176.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Stollery: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(g), I move that the report be adopted now.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Terry Stratton (Deputy Leader of the Opposition): I would like to see the report first. I will not pass judgment on a report that I have not read.

Senator Stollery: The report could be considered later this day.

The Hon. the Speaker: Honourable senators, is leave granted to put the motion of Senator Stollery that the report be taken into consideration later this day?

Hon. Senators: Agreed.

On motion of Senator Stollery, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

ANTI-TERRORISM ACT

BUDGET— REPORT OF SPECIAL COMMITTEE PRESENTED

Hon. Joan Fraser, for Senator Fairbairn, Chair of the Special Senate Committee on the Anti-terrorism Act, presented the following report:

Thursday, September 29, 2005

The Special Senate Committee on the Anti-terrorism Act has the honour to present its

THIRD REPORT

Your Committee, which was authorized by the Senate on Monday, December 13, 2004 to undertake a comprehensive review of the provisions and operation of the *Anti-terrorism Act*, (S.C. 2001, c.41), respectfully requests the approval of supplementary funds for fiscal year 2005-2006.

Pursuant to Chapter 3:06, section 2(1)(c) of the Senate Administrative Rules, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

JOYCE FAIRBAIRN Chair

(For text of budget, see today's Journals of the Senate, Appendix D, p. 1181.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Fraser, with leave of the Senate and notwithstanding rule 57(1)(e), report placed on the Orders of the Day for consideration later this day.

• (1400)

HAZARDOUS MATERIALS INFORMATION REVIEW ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Wilbert J. Keon, Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, September 29, 2005

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

FOURTEENTH REPORT

Your Committee, to which was referred Bill S-40, An Act to amend the Hazardous Materials Information Review Act has, in obedience to the Order of Reference of Thursday, June 30, 2005, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

WILBERT J. KEON Deputy Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Keon, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY 2004-05 ANNUAL REPORT OF CHIEF ELECTORAL OFFICER

Hon. Lise Bacon: Honourable senators, I hereby give notice that at the next sitting of the Senate I shall move:

That the document entitled Annual Report of the Chief Electoral Officer of Canada 2004-2005, tabled in the Senate on September 28, 2005, be referred to the Standing Senate Committee on Legal and Constitutional Affairs pursuant to section 75(1) of the Privacy Act.

[English]

TREATMENT AND THERAPY FOR AUTISM

PRESENTATION OF PETITION

Hon. Marjory LeBreton: Honourable senators, on behalf of a very special and focused young individual, Joshua Bortolotti, who lives in Osgoode, outside of Ottawa, and who has a beautiful young sister who is autistic, I present the following petition. He is a remarkable young man, and a new-found friend.

We, the undersigned citizens of Canada, draw to the attention of the Senate the following:

Whereas people suffering from an Autism Spectrum Disorder (ASD) are among the weakest and most vulnerable sector of Canadian society;

and whereas, in Canada the rate of children being diagnosed with ASD is high and increasing at an alarming rate (currently approximately 1 in 195);

and whereas, until the cause and cure for autism are found, people suffering from autism can benefit from the provision of Intensive Behavioural Intervention (IBI) therapy treatment based on the principles of Applied Behavioural Analysis (ABA);

and whereas, for a variety of reasons including lack of assigned resources, unconscionable waiting lists, and delegation to Ministries with little or no expertise, the provision of IBI/ABA therapy treatment to people with autism is woefully inadequate;

Therefore, your petitioners call upon Parliament

- (1) to amend the Canada Health Act and corresponding Regulations to include IBI/ABA therapy for people with autism as a medically necessary treatment and require that all Provinces provide or fund this essential treatment for autism; and
- (2) contribute to the creation of academic chairs at a university in each province to teach IBI/ABA treatment at the undergraduate and doctoral level so that Canadian professionals will no longer be forced to leave the country to receive academic training in this field and so that Canada will be able to develop the capacity to provide every Canadian with autism with the best IBI/ABA treatment available.

I present these two petitions on behalf of Joshua.

ORDERS OF THE DAY

DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Noël A. Kinsella (Leader of the Opposition) moved second reading of Bill S-41, to amend the Department of Foreign Affairs and International Trade Act (human rights reports).

He said: Honourable senators, I rise to speak at second reading of Bill S-41, to amend the Department of Foreign Affairs and International Trade Act, dealing with human rights reports, which requires the Minister of Foreign Affairs to lay before each House in Parliament a copy of any reports submitted by the Government of Canada to the United Nations on the progress made by Canada in implementing United Nations human rights instruments to which Canada is a signatory, as well as any responses to those reports that the Government of Canada receives from the United Nations.

Honourable senators, obviously we were pleased to hear from the Leader of the Government in the Senate when he advised the house that the government looks with favour upon this legislative initiative of Senator Losier-Cool and myself.

I will provide some background on the principle of the bill. First, the bill arises from a concern about these reports, on which our Standing Senate Committee on Human Rights has been acquiring a great deal of expertise since we established a human rights committee here in the Senate. Not only the committee members but honourable senators in general are reading those reports and the responses of the various committees and agencies at the United Nations that examine them. We are finding, however, that these reports and the United Nations responses to them are failing to capture broad attention across the country. There is little or no public awareness of the ongoing work being done in the area of implementing and complying with the terms of these human rights instruments.

• (1410)

This area of Canada's compliance with international human rights instruments is one of the best kept secrets in terms of how the federation works so well, because there is close collaboration at the officials' levels between the provinces, the territories and the federal departments that have responsibilities in this field. It is one of those good stories of how the federation works well, this international human rights compliance area.

Unfortunately, far too often the work of the United Nations, which includes the many legal instruments to which Canada is party, the various reports filed and the myriad of responses received, remain the exclusive domain of either the officials who are working in human rights, a few human rights advocates and academics. Compliance with these instruments has real ramifications for millions of Canadians. Our access to, and relationship with, these instruments, organizational bodies and complaint processes should be as open, well known and accessible as we possibly can make them.

[Translation]

Honourable senators, not making public the salient facts about Canada's performance or acknowledging its weaknesses is a disservice to the public. We are broadening the gap of cynicism between voters and us as parliamentarians. Canadians know intuitively that the number of children living in poverty is increasing. They are made aware daily of the overrepresentation of Aboriginal people in our prisons. There are more and more media reports criticizing the government for detaining people on the basis of security certificates. Although there is an abundance of lengthy, complex and hard to obtain international reports, do they capture Canadians' attention? Honourable senators, it is our duty as parliamentarians to ensure that Canadians are aware of the remedial steps available to them and their potential role in a sustained and lively debate in a world forum. It ought to be our goal to disseminate information, and to insist that the government make that information available in a totally honest, objective and transparent manner.

The tabling of documents in Parliament is an act that is both symbolic and practical. It is symbolic of the government's belief that their content is important, worthy of attention and in the public interest. This helps create an atmosphere of openness and responsibility. Public disclosure bolsters public confidence in government institutions.

Failure to table these assessments of government policies leaves us open to charges that Parliament prefers to control and contain information. In 2004, the Association for Canadian Studies carried out a survey from which it concluded that 74 per cent of Canadians feel it is important to keep an eye on government.

Honourable senators, what could be better than a neutral third party like the United Nations to keep on eye on government? There can be no justification for not publishing these documents. Tabling reports can have nothing but favourable results, and no one opposes transparency. Refusing to table documents that are in the public interest merely contributes to the decline of a democratic tradition based on disclosure and leads to the erosion of transparency.

[English]

Honourable senators, the tabling of documents in Parliament also has real, practical effects. Through the process of tabling, documents recognized for their importance are highlighted and distributed to parliamentarians. Many parliamentarians may have little exposure and experience in human rights matters and, therefore, may not naturally undertake the great task of sifting and reviewing the mounds of paper produced on the topics of various governmental departments and international organizations. It is not evident on the face of reports and responses that many topics covered are of real and everyday concern to Canadians. Topics such as prisons, Aboriginal issues, military training, refugees, restructuring of the economy, violence against women, privatization of health care, social assistance programs, citizenship applications, youth, suicide, and child care have all been the subject of recommendations by the United Nations in direct response to the reports Canada has submitted.

We find no better example of the impact of the United Nations human rights system than in our newly appointed Senator Lovelace Nicholas. Alongside Senator Lovelace Nicholas, we fought a long, protracted battle to retain the rights that Aboriginal women had been deprived of in their own country. Only the United Nations was able to help remedy this situation. This example should remind us that the United Nations is not merely a depository for the esoteric, nor does it act only as a specialized body discussing the problems of Third World nations. The United Nations is an institution that has the ability to fundamentally affect the lives of Canadians at the grassroots level as well.

[Translation]

Honourable senators, many of these fundamental issues are seldom linked to human rights and make up instead the core of topics that government deals with on an everyday basis in its business and policies. They are the issues that concern Canadians the most and that parliamentarians have to address in their regions and ridings. Given the lack of opportunity to objectively evaluate government policy separately from partisan politics and information provided by lobbies, and the fact that the United Nations commands authority and respect, these reports and responses may be a source of clear and concise information on many topics for parliamentarians.

The tabling of these reports also has a practical impact on the type of information relayed to Canadians by the media. At present, the image Canadians have of their government's actions with respect to the rights of women and children, the elimination of racism and the increase in poverty is greatly influenced both by the government's official press releases praising its own achievements, and by partisan attacks. Should the media really be expected to scrutinize every single press release to determine whether it contains information that might capture the attention of Canadians, and then conduct an investigation to find out if a valid opposing position exists? Being concise, these UN reports and responses represent a third party evaluation that can be interpreted faithfully by the media, and then assimilated by the reading public. The tabling of such documents provides direct access to communications media, ensuring that the information made available to Canadians is of greater quantity and quality.

Honourable senators, I want to reiterate that the content of these responses often provides useful criticism of Canada's policies and practices coming from a credible, authoritative organization. We also learn of our successes in these responses. Oft-ignored complaints by lobbyists and political parties can gain credibility and substance when they are confirmed by the United Nations. Moreover, having our success recognized can mean that a policy is working as planned.

• (1420)

Honourable senators, I will take a few moments, if I may, to share with my colleagues certain recommendations formulated by the UN in response to Canadian reports. In 1997, for instance, the United Nations Committee on the Elimination of Discrimination Against Women criticized Canada for neglecting to present reports for analysis or evaluation. The committee insisted that, in

future, any discussion about legislative or judicial texts relating to women must be accompanied by adequate explanations of their repercussions on that group.

The UN's response also indicated its concern for the apparently disproportionate effects of the economic recovery on women, since there was no sign of improvement as far as violence toward women was concerned, teen pregnancy was on the rise, and poverty among women was worsening.

[English]

Honourable senators, a few years ago there was another example. The Committee on the Elimination of Racial Discrimination expressed concern about matters such as the incompatibility of the Indian Act with the Convention on the Elimination of Racial Discrimination, violence against Aboriginals and those of African and Asian decent, the denial of education to migrant children, and the inaccessibility of the human rights complaint process. Despite the three years that have intervened since this response, on June 6 of this year the Minister of Immigration, Joe Volpe, testified before our Standing Senate Committee on Human Rights that his department could not guarantee that migrant children were being included in the education system. His explanation was that some school boards decide unilaterally that migrant children are not their responsibility. The minister was only able to say that he "thinks" the department is making great strides and that it is not an easy process. I suggest, honourable senators, the fact that this was a problem identified more than three years ago and that it should have been tabled in Parliament. Had it been, perhaps sufficient public pressure would have been placed on the Department of Immigration to address the problem fully and finally in the last three years.

Further, honourable senators, the Office of the High Commissioner for Human Rights — the commissioner being a former member of the Supreme Court of Canada, Madam Justice Arbour — responded to Canada's report to the Committee Against Torture in 2000, where it articulated anxiety over the use of pepper spray at the APEC demonstrations, the harsh treatment of female detainees, use of undue force and involuntary sedation in asylum seekers, overrepresentation of Aboriginals in prisons, training of military personnel, and the repeated use of security certificates to attempt to deport individuals to countries where they face torture.

This last item is of particular concern. Many Senate committees, including the special Senate committee examining the anti-terrorism law, have heard government ministers defend the security certificate process by relying on the Supreme Court's decision in Suresh and the fact that no court in Canada has found the process unconstitutional. I remind honourable senators that in Suresh the Supreme Court held there may be an occasion where Canada could deport an individual to a country where he or she may face torture. Such an action would be in direct contravention of our international obligations under the Convention Against Torture and would deviate grossly from accepted international law principles that define the right to be free from torture as a "non-derogable" human right that is never subject to an

exception. This issue has been the topic of significant media coverage recently, given the increase in the use of the security certificate process since September 11, 2001. It is quite significant that the United Nations expressed apprehension over the practice more than four years ago.

Honourable senators, the UN possesses the exceptional position of being able to compare different countries and develop opinions about what are the acceptable practices a nation may employ when executing its international obligations. Such a unique position or vantage point provides credible and authoritative information that ought to be tabled before Parliament in the interests of maintaining faith in government.

Civil society cannot help but be strengthened when Canadians embrace the democratic principles of open disclosure, transparency, accountability and responsibility. The great Ghandi embodied the often quoted idiom that knowledge is power when he stated, "In a true democracy every man and woman is taught to think for him or herself."

I invite all honourable senators to enable Canadians to actively engage in their democracy by giving them access to the tools they need most in order to think for themselves, namely, information. I encourage all colleagues to support this measure as a means to that end.

On motion of Senator Losier-Cool, debate adjourned.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TWELFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the twelfth report of the Standing Committee on Internal Economy, Budgets and Administration (Senate Supplementary Estimates (A), 2005-2006), presented in the Senate earlier this day.

Hon. George J. Furey moved the adoption of the report.

He said: Honourable senators, your committee has prepared a supplementary estimates submission of \$1,449,600. Approximately 65 per cent of this funding is directly related to the work of committees and is needed to accommodate the heavy workloads being undertaken this year. This includes funding for special studies that were not foreseen at the time the Main Estimates were prepared. This also includes additional funding for parliamentary association activities, and funding for adjustments to Senate leadership and caucus research budgets.

I requested leave to consider this report today in order for us to meet the Treasury Board timelines for finalizing the government's supplementary estimates. In order to allow us to pursue our valuable work, I ask that honourable senators support the adoption of this report.

The Hon. the Speaker: I see no senator rising to speak or to adjourn the debate. Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

FOREIGN AFFAIRS

BUDGET—REPORT OF COMMITTEE ON STUDY OF MATTERS RELATING TO AFRICA ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Foreign Affairs (budget—release of additional funds (study on the development and security challenges facing Africa)), presented in the Senate earlier this day.

Hon. Percy Downe moved the adoption of the report.

Hon. Marcel Prud'homme: It may be interesting to see the report on which we are to vote.

The Hon. the Speaker: I am determining whether the report has been circulated.

Senator Prud'homme: It is okay. My colleagues were courteous in giving me their copies.

• (1430)

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

ANTI-TERRORISM ACT

BUDGET— REPORT OF SPECIAL COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Special Senate Committee on the Anti-terrorism Act (budget—release of additional funds (study on the review and the operations of the Anti-terrorism Act)), presented in the Senate earlier this day.

Hon. Joan Fraser moved the adoption of the report.

The Hon. the Speaker: Senator Fraser, if you do not wish to speak to your motion, I will see Senator Stratton.

Senator Fraser: I may be able to answer some of Senator Stratton's questions. This report is for a budget of \$101,840 for the Special Senate Committee on the Anti-terrorism Act to travel to London where there is vast experience in this area and where the British government is now engaged in a similar exercise to our own, revisiting its anti-terrorism legislation.

We are asking that the report be adopted today to enable us to make the necessary arrangements to travel early in November.

As honourable senators know, these things do take time to organize and, therefore, we would like to get a head start on that work.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I do not question that this trip should be undertaken. However, I have a couple of questions with respect to the tour.

As honourable senators may be aware, the Standing Senate Committee on National Finance will be in London at virtually the same time. Perhaps we could save some money by having some members of the National Finance Committee serve on the Antiterrorism Committee, thus saving a few airfares.

You have budgeted for buses for three days at \$950 a day. Will you be doing extensive travel throughout England, or will you be meeting at Westminster?

Senator Fraser: Much depends on whom we are able to arrange to see. We are not planning to travel outside of London, but it is cheaper to get around London by bus than by cab. The honourable senator will be familiar with prices in London these days.

In answer to the earlier point with regard to the travel of the National Finance Committee, we are hoping to persuade a hotel to give favourable rates in light of the fact that two committees will be staying there. I believe that at least one member of our committee is also a member of the National Finance Committee, so there will be some overlap.

Senator Stratton: Having been to London a few times, I know that if one stays in a particular hotel, one can walk to Westminster and save on buses, for which the committee is requesting \$2,850.

Senator Fraser: We are grateful for the knowledgeable comments of the Honourable Senator Stratton. We seek all possible ways to save money.

The Hon. the Speaker: No other senator rising, are honourable senators ready for the question?

Hon. Marcel Prud'homme: Again, I would not object.

Some Hon. Senators: Oh, oh.

Senator Prud'homme: It is not your job to give me a report. We have new senators here. I know about this because I read about it in another committee, but it was not in an official capacity.

In order to discuss and ask questions intelligently, one has to have a copy of the report. I have a strong reservation, but I can feel the mood of the Senate, so I will not object. I would, however, like to get a copy.

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

INFORMATION COMMISSIONER

MOTION IN SUPPORT OF HOUSE OF COMMONS MOTION TO EXTEND TERM BY ONE YEAR—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator LeBreton:

That the Senate of Canada join with the House of Commons in recommending that the term of John Reid, the Information Commissioner of Canada, be extended by an additional year effective from July 1, 2005.—(Honourable Senator Rompkey, P.C.)

Hon. Terry Stratton (Deputy Leader of the Opposition): I was wondering when the Honourable Senator Rompkey was planning to speak to this issue. It has been standing in his name for some time.

Hon. Noël A. Kinsella (Leader of the Opposition): He has had all summer to do the research.

Hon. Bill Rompkey (Deputy Leader of the Government): We are not very far along in this process. We on this side do intend to debate this motion. I would ask for consideration for more time to prepare.

Senator Stratton: Could the honourable senator be a little more definitive?

Senator Rompkey: I think I can give the assurance that when we resume, we will enter into the debate.

Order stands.

[Translation]

INFLUENCE OF CULTURE

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Léger calling the attention of the Senate to the importance of artistic creation to a nation's vitality and the priority the federal government should give to culture, as defined by UNESCO, in its departments and other agencies under its authority.—(Honourable Senator Losier-Cool)

Hon. Rose-Marie Losier-Cool: Honourable senators, I rise today to speak to you about the priority culture is given in our society and the importance I think it should have in Canada and in this august chamber. First, allow me to digress by reading something quite beautiful and very touching from today's edition of Le Droit.

I am quoting from a letter, signed by Pascal Barrette, of Ottawa, that truly illustrates the importance of appreciating and defending culture. The article is entitled "Yes, Your Excellency" — I am referring to our new Governor General, the Right Honourable Michaëlle Jean:

A woman who is moved to tears by the Plamondon-Dufresne song *Ne tuons pas la beauté du monde*; a woman who is not comfortable sitting in the centre of her chair and who invites children, including her daughter, to her installation; a woman who wraps the stiffness of protocol in the softness and beauty of singers, musicians, poets and acrobats; a woman who has O Canada played by a string quartet; a woman who feels humbled by so many honours; a woman who wants to eliminate the two solitudes and promote solidarity; a woman who is greeted by Gilles Vigneault's *C'est à ton tour* as she leaves Parliament Hill in her landau; a woman who wants to offer the world an extra dose of soul; in short, a woman who does things as they have never been done before; I bow deeply to this woman named Michaëlle Jean and say, "Yes, Your Excellency".

• (1440)

Since the Honourable Viola Léger — whose retirement has left a gap — made her speech on May 19, I have thought a great deal about all the things that constitute a culture, the importance of the arts to that culture and the enhancement of the arts and culture in our schools, families and society.

Nor can we forget the poignant remarks of the Honourable Joan Fraser on June 15 about the roles of government and the Senate in defending and promoting culture. We must not forget the passion our former colleague, the Honorable Laurier LaPierre, for culture and the arts.

I want to review a few generally accepted observations.

[English]

A society is defined by its economic, political and human characteristics and evolves from its geography and history. This history comes from events initiated or shared by the society and from its customs, values and creations. These customs, values and creations make up the society's culture in the broader sense. Also contributing to this culture are the artistic creations and practices of the society.

[Translation]

When I say the arts, I am referring to the performing arts, including drama, dance, opera and music, as well as the plastic arts, such as painting, sculpture, architecture, engraving and so on. I want to remind the Senate of what Senator Léger said on May 19:

— the arts help balance us, awaken our souls, and allow us to breathe, to live.

Paul Émile Cormier, an Acadian compatriot, a former colleague in education and a passionate defender of literacy, told Radio-Canada Atlantique that the arts allow us to express ourselves. As for me, I am convinced that the arts are the most visible and tangible outward manifestation of a society's culture or a window into that culture, if you will. That is why we have to defend and promote the arts in Canada, so that other nations and future generations can see and understand who we are and why we are the way we are.

In Canada, promoting the arts and culture is a constant battle. Like the United States, Canada is primarily concerned with its economy and, to a lesser degree, politics. Our society often neglects the human component.

[English]

Perhaps, no thanks to some media that advocate consuming at all costs, economic success remains overrated in Canada. Too many people still believe that they will be considered to have succeeded in life only when they own lots, and preferably of the expensive kind. This resulting never-ending quest for economic success does not leave much room for the political component of our society, as witnessed by the ever-decreasing participation in the electoral and political process. It usually leaves little room, if any, for the human component of society, its culture and the arts.

[Translation]

The only way we can reverse this trend is by attaching as much importance to culture and the arts, within our society, as we do to economic success. Artistic creation and consumption have to be as natural and essential and make as much sense to us as economic success. We have to be as anxious to live in our culture as we are to live in a nice house. And for this to happen, culture and the arts have to take their proper place at each level of our social structure, starting at the grassroots. It is important that our young people feel like consuming and creating culture and art. And I am not talking about sitting in front of a television set, although that medium may play quite a useful role at times.

Our children, starting in kindergarten and all the way through elementary and secondary school, have to learn, taste and experience culture and art. It is important that our children learn how to paint, sculpt and play music and that they learn to love, want and need to paint, sculpt and play music.

[English]

We will only achieve this if schools give culture and the arts as much room on the curriculum as they do for compulsory topics and sports. My many years as a teacher have taught me that these three areas are like the legs of a stool called education. Remove or weaken any of these three legs and the stool will fall. It is, therefore, imperative that teachers, principals and school boards open up to, and fully embrace, culture and the arts.

[Translation]

I take this opportunity to draw attention to a pilot project run by the school district back home in the Acadian peninsula, which just hired cultural activities organizers to promote culture and the arts, and at the same time free up teachers to teach the core subjects. This is a project I am following with interest, as you can well imagine.

But schools must not be the only ones responsible for cultural and artistic education. Families have a part to play: parents must support the cultural and artistic activities their children start at school and practise at home, but this support must be more than mere supervision. Parents should also make their own contribution by getting actively involved in their children's cultural or artistic activities and expanding on them.

[English]

Then again, schools and families alone are not enough to ensure the promotion and healthy survival of culture and the arts. Remember what I said earlier: The interest in, and the need for, culture and the arts must be instilled at every level in our society.

Let me now turn, therefore, to the rest of the infrastructure, where families and schools reside: their communities.

[Translation]

During a recent conversation, René Cormier, Director of the Théâtre populaire d'Acadie and President of the Fédération culturelle canadienne-française, said he felt that the municipalities had an essential role to play in defending and promoting culture and the arts. According to him, municipalities must play the same role for families and society that I feel schools must play for children.

[English]

That is all about creating everywhere an environment where humans can comfortably indulge in artistic pursuits. It is all about nurturing the availability of culture and the arts — about fostering the non-economic, non-political facets of our lives.

[Translation]

Municipalities must allow families to live their culture and contribute to it, to benefit from the arts and bring their own vision to it. How? By providing such basic infrastructure as a concert hall in conjunction with an exhibition space; by starting up or subsidizing, in part or in full, unique shows there to share with other municipalities, such as a festival, an artists' tour, a play, a concert and so on; by creating an economic climate conducive to making culture flourish, through tax credits to promoters, for example.

The best example that springs to my mind is the baroque music festival in Lamèque, New Brunswick, which celebrated its 30th anniversary this year. The festival got its start through the local organist and local business people. Its fame now shines in Eastern Canada and even in parts of Europe. This festival represents a great cultural, artistic, economic and human success for the Acadian peninsula. I encourage you to take it in next July.

If schools played their role and if families, municipalities and communities played their roles, we would have four types of cultured people. At the very least, we would have people who are aware of culture and the arts, which would already be a major improvement over what we have today.

• (1450)

I give you as an example a great German baritone, Fischer-Diskau, now retired, who believes it is imperative that we destroy this veneer of exclusivity, snobbery and elitism that, for too many people, surrounds culture and the arts and often makes them undesirable.

The other huge advantage in having a population that is generally aware of culture and the arts would be having teachers and parents who are better able to promote and instill that culture and those arts. René Cormier shares that view, as he feels it is essential that the people involved in cultural and artistic promotion and education be as proficient as possible.

At the second stage, we will have consumers of culture and the arts, which in the short term will help ensure the survival of culture and the arts and contribute to the economic and perhaps even the political well-being of our society.

[English]

At the third stage, we shall have practitioners of culture and the arts: dancers, actors, musicians, painters, architects and so forth. This would ensure the mid-term survival of culture and the arts, thereby further contributing to the well-being of our society.

[Translation]

On the outside, the level that means so much to people like Viola Léger, René Cormier and Tommy Banks, we will get creators of culture and art, composers, playwrights, choreographers, and the like. All these people will contribute to the long-term survival of our culture, our arts and therefore our society.

Beyond schools, beyond families and beyond communities, what role do governments have to play and what role could this chamber play? The answer as far as the government is concerned is very simple: the government can do the same for municipalities, provinces and territories as municipalities do for their communities.

[English]

As a guiding principle, I firmly believe that the federal government should establish and fund fiscal and operational incentives that would encourage provinces and territories to develop, maintain and promote cultural and artistic endeavours. Similarly, provincial and territorial governments should operate in such a way as to fully allow municipalities to nurture culture and the arts in their midst, as I outlined earlier.

[Translation]

Our honourable colleague Joan Fraser said on June 15 last:

The arts do not do well when governments meddle.

That is true some of the time, but I prefer to qualify that opinion and not advocate, as it were, non-interventionism. It all depends on how governments get involved. We are also politicians, and the Senate also has a role to play.

Unlike some of you, I am not an expert in political administration or public administration. But like many of you, I am learning through others.

This chamber has all the necessary expertise and a great deal of time. We regularly examine issues related to culture and the arts. However, in my view, that is not enough. I do not think we give culture and the arts the attention they deserve in our debates and other work.

[English]

It is said that the example must come from the top. Does this mean that the Senate should heed the call of our former colleague Viola Léger and create a committee dedicated to culture and the arts? René Cormier believes we should. According to him, and I agree with him in principle, the purpose of this new committee should be to maintain a top-level dialogue with Canada's cultural and artistic representatives, to keep cultural and artistic concerns to the fore in the political agenda, and to ensure that these concerns are adequately met in government programs.

Our honourable colleague Senator Fraser has expressed her concerns about overlaps and shortcomings in the mandate of our existing committees, and I share some of these concerns. For these reasons, I believe it may be premature to launch yet another committee that would further test our limited resources and create more overlaps with other committees.

The Hon. the Speaker: Senator Losier-Cool, I regret to advise that your time has expired.

Senator Losier-Cool: I just have one more page.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

[Translation]

I still believe, however, that we have to do more to defend culture and the arts; culture and the arts must not be made to wait and suffer while we reorganize our committees. I therefore propose, as an interim measure, that arts and culture be handled exclusively by a new subcommittee of the Standing Senate Committee on Social Affairs, Science and Technology.

If this new subcommittee succeeds in taking from committees all matters related to culture and the arts, and if this new subcommittee is busy enough to justify its existence — and that is my most heartfelt hope — it will then be time to move on to the next stage.

We will then be able to consider whether it is appropriate to amend our rules to include a standing committee on culture and the arts. That would fulfil the wishes of our former colleague the Honourable Senator Viola Léger. Honourable senators, I await your reaction to these suggestions.

On motion of Senator LeBreton, for Senator Champagne, debate adjourned.

[English]

ASSASSINATION OF LORD MOYNE AND HIS CONTRIBUTIONS TO BRITISH WEST INDIES

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cools calling the attention of the Senate to:

- (a) November 6, 2004, the sixtieth anniversary of the assassination of Walter Edward Guinness, Lord Moyne, British Minister Resident in the Middle East, whose responsibilities included Palestine, and to his accomplished and outstanding life, ended at age 64 by Jewish terrorist action in Cairo, Egypt; and
- (b) to Lord Moyne's assassins Eliahu Bet-Tsouri, age 22, and Eliahu Hakim, age 17, of the Jewish extremist Stern Gang LEHI, the Lohamei Herut Israel, translated, the Fighters for the Freedom of Israel, who on November 6, 1944 shot him point blank, inflicting mortal wounds which caused his death hours later as King Farouk's personal physicians tried to save his life; and
- (c) to the 1945 trial, conviction and death sentences of Eliahu Bet-Tsouri and Eliahu Hakim, and their execution by hanging at Cairo's Bab-al-Khalk prison on March 23, 1945; and
- (d) to the 1975 exchange of prisoners between Israel and Egypt, being the exchange of 20 Egyptians for the remains of the young assassins Bet-Tsouri and Hakim, and to their state funeral with full military honours and their reburial on Jerusalem's Mount Herzl, the Israeli cemetery reserved for heroes and eminent persons, which state funeral featured Israel's Prime Minister Rabin and Knesset Member Yitzhak Shamir, who gave the eulogy; and
- (e) to Yitzhak Shamir, born Yitzhak Yezernitsky in Russian Poland in 1915, and in 1935 emigrated to Palestine, later becoming Israel's Foreign Minister, 1980-1986, and Prime Minister 1983-1984 and 1986-1992, who as the operations chief for the Stern Gang LEHI, had ordered and planned Lord Moyne's assassination; and
- (f) to Britain's diplomatic objections to the high recognition accorded by Israel to Lord Moyne's assassins, which objection, conveyed by British Ambassador to Israel, Sir Bernard Ledwidge, stated that Britain "very much regretted that an act of terrorism should be honoured in this way," and Israel's rejection of Britain's representations, and

Israel's characterization of the terrorist assassins as "heroic freedom fighters"; and

(g) to my recollections, as a child in Barbados, of Lord Moyne's great contribution to the British West Indies, particularly as Chair of the West India Royal Commission, 1938-39, known as the Moyne Commission and its celebrated 1945 Moyne Report, which pointed the way towards universal suffrage, representative and responsible government in the British West Indies, and also to the deep esteem accorded to Lord Moyne in the British Caribbean.—(Honourable Senator Comeau)

Hon. Marcel Prud'homme: With your permission, I would like to say that I have a speech prepared called "La trilogie du terrorisme au Moyen-Orient." However, in view of the hour, I would like to adjourn this motion. I know Senator Comeau will be more than happy to transfer to my name. That is what I gathered from speaking with him. I move the adjournment under my name.

On motion of Senator Prud'homme, debate adjourned.

• (1500)

CONFERENCE BOARD OF CANADA

REPORT ON MAXIMIZING TALENTS OF VISIBLE MINORITIES—INQUIRY—DEBATE ADJOURNED

Hon. Donald H. Oliver rose pursuant to notice of June 9, 2005:

That he will call the attention of the Senate to a new report: Business Critical: Maximizing the Talents of Visible Minorities, An Employers Guide, and how this study by the Conference Board of Canada can lead to fundamental changes in the hiring and promotion of visible minorities in both the public and private sectors including the Senate of Canada.

He said: Honourable senators, I am pleased today to speak to the joint notice of inquiry introduced by Senator Di Nino and I on June 15, pursuant to rule 57(2) of the Senate.

At the outset, honourable senators, I wish to thank my colleague Senator Di Nino for joining me in tabling this notice of inquiry. I know it is an issue that he cares about deeply and I am delighted to speak to this inquiry with him today.

Honourable senators, the reason Senator Di Nino and I tabled this notice of inquiry is simple. Visible minorities are not fairly represented in the upper echelons of Canadian society. They are not appropriately represented in our public service. They are not fairly represented in our private sector. They are not fairly represented in our public institutions and they are not fairly represented here in the Senate of Canada.

We also wish to call the attention of the Senate to a new report recently released by the Conference Board of Canada that we believe can address the unfair representation of visible minorities in our workplace. First, I will share briefly with honourable senators some of the facts that demonstrate what many refer to as "the changing face of Canada." According to Statistics Canada's 2001 Census of Population, visible minorities comprise 13.4 per cent of Canada's population in the year 2001. That number is five years old. At present, it is believed to be 18 per cent. By 2016, the number will rise to substantially over 20 per cent.

Already, visible minorities comprise 53 per cent or over onehalf of Toronto's population. Ontario is home to 54 per cent of visible minorities in Canada. Nearly 45 per cent of the people in Vancouver are visible minorities. By the time Canada celebrates its 150 birthday in 2017, Statistics Canada predicts that British Columbia will have the largest proportion of visible minorities of any province in the country at nearly 55 per cent.

However, in Canada's workforce, visible minorities continue to languish and remain unrepresented, particularly in positions of power and influence. According to the Public Service of Canada's most recent employment equity report, visible minorities comprise only 7.8 per cent of our federal public service. This figure represents a 0.4 per cent increase in the last year.

Less than 5 per cent of visible minorities in the public service have been promoted to executive or middle management positions in the last year. In fact, honourable senators, the percentage of promotions for visible minorities actually declined in the years 2003-2004.

In the private sector, only 3 per cent of Canadian organizations reported having a chief executive officer who was a visible minority. The Conference Board of Canada reports that just 1.7 per cent — not even 2 per cent — of almost 900 senior executives who sit on boards and executive committees in Canada are visible minorities. In the United States, this number is estimated at 13 per cent.

When I walk down Bay Street in Toronto, or visit Purdy's Wharf Business Centre in Halifax, I do not see a Canada that reflects our country's cultural mosaic. What I see is a reflection of our old, white, greying establishment.

It is especially glaring in the public service here in Ottawa; and the under-representation of visible minorities is also obvious in the Senate of Canada. It is glaring in the Senate committees directorate; it is glaring in the Senate's finance directorate; it is glaring in the parliamentary precinct services directorate; and it is also glaring in the membership of this particular upper chamber itself.

The Senate human resources directorate released its own employment equity report in September 2004. That report showed visible minorities currently comprise only 6.8 per cent of the Senate's 425 employees. The report also showed a paltry 0.9 per cent increase in visible minority representation between the years 2000 and 2004.

However, it is in the senior and middle management positions where the Senate's record is especially shameful. Honourable senators, according to its own employment equity report, the

number of visible minorities employed in senior and middle management positions in the Senate in the year 2000 was zero; in 2001, zero; in 2002, zero; in 2003, zero; and in 2004, the number again, honourable senators, was zero.

In the last five years, there has not been a single visible-minority candidate promoted to a senior or middle management position in the Senate, according to its own 2000-2004 employment equity report. Honourable senators, consider that. In the last five years, there has not been one visible minority, not a single Canadian of colour, in a position of power in the Senate of Canada's administration.

So far in 2005, the Prime Minister has summoned 17 Canadians to the Senate; not one, not even one, was a visible minority. Only four of 105 Senate seats are held by members of the visible minority communities. This amounts to just 3.8 per cent of the Senate's membership, less than one-quarter of Canada's visible minority population. By comparison, visible minorities occupy 20 of 308 seats in the other place, or 6.5 per cent.

Honourable senators, the Senate's lack of diversity is so glaring and so problematic to the future of our institution that it heightens the desire of many Canadians to have our upper chamber abolished because it is irrelevant and unrepresentative of Canada's cultural mosaic.

Clearly, the Senate and indeed Canada's entire workforce is failing to attract, recruit and retain visible minorities effectively. Why is that? In a word, honourable senators, it is racism—systemic, well-entrenched, institutionalized racism that is leading to Canadians of colour routinely being paid less, treated worse and denied the same opportunities for advancement as other Canadians. Our government needs to make racial diversity a central policy imperative because it clearly is not now.

That is not right. It is not fair and it is not just. Equally important, it is not in the best interests of Canadians. We must turn to immigrants for our country's future growth.

Who are visible minorities and how can they, and how do they contribute to our country and our country's economy? Statistics Canada's 2001 Census of Population defines visible minorities as "persons, other than Aboriginal peoples" — I repeat, other than Aboriginal peoples — "who are non-Caucasian in race or non-white in colour." They represent over 75 per cent of all new immigrants to Canada.

As a group, visible minority immigrants have a higher, not lower, level of education than Canada's population. According to the report of the Conference Board of Canada, 69 per cent of immigrants aged 25 to 44 who arrived in our country between 2000 and 2001 reported having a university degree; only 22 per cent of the Canadian-born population of the same age group can report that. Yet, according to the conference board's new research, only 4 in 10 immigrants were working in the same occupational field they had left.

The conference board also found that roughly 546,000 Canadians, nearly half of whom are visible minorities, earn between \$8,000 and \$12,000 less a year than their potential

because of Canada's failure to acknowledge foreign credentials and work experience. The study shows that the estimated cost to the Canadian economy of not recognizing the credentials or work experience of visible minority newcomers is almost \$3 billion. Almost \$3 billion a year is what we lose.

This is more than just an equality issue; it is an economic imperative. The prosperity of our economy will depend on our ability to attract and retain new immigrants in Canada.

Picture it this way. If the world were a village of 100 people, there would be 61 Asians, 13 Africans, 12 Europeans, 9 South Americans and just 5 North Americans. Simply put, on a global scale, visible minorities are in fact the visible majority.

Normally, when one raises the fact that visible minorities are grossly under-represented in Canada's workforce, I receive several standard answers. The first is simply denial — "Well, that cannot be the case. What you say cannot be true."

The second is that there are simply not enough competent visible minorities to fill the management positions that drive Canada's economy. This was evident when I appeared on the Dave Rutherford radio show earlier this month, when callers repeatedly asked me, and I quote: "Isn't it true there just aren't any visible minorities out there who are smart enough to fill these jobs?"

The third reaction is to dispute the statistics I have just mentioned and to ask for proof. I realized after many speeches, radio interviews and roundtables I participated in across Canada about the need to obliterate racism from our society that many of my efforts were falling on deaf ears. I determined that in order to promote change, Canadian organizations required a business-oriented analysis that put down a compelling case for leveraging the growing diversity of our country's workforce.

• (1510)

With that gauntlet dropped, I decided that I needed objective, scientific proof that racism, discrimination and race hatred are everyday realities for visible minorities in both the public and private sectors, and even in our parliamentary institutions. I also wanted concrete proof that this discrimination is doing irreparable damage to Canada's economy.

I did that in 2003 by engaging the Conference Board of Canada in the largest and most comprehensive research project ever conducted in the history of Canada on the barriers to visible minority advancement in Canada. That report cost me more than \$500,000. I was able to raise the money in just six months. The project was completed last spring in the form of a book entitled Business Critical: Maximizing the Talents of Visible Minorities, an Employers Guide.

Basically, the study provides human resource managers and business professionals with the case study evidence necessary to drive diversity to the core of their organizations. Business Critical contains more than 100 pages of original case study research from over 20 public and private sector organizations. Seven focus groups were organized with leading visible minority professionals;

10 interviews were conducted with NGOs and executive search firms; and 69 medium- and large-sized Canadian companies participated in the study, including companies such as Ernst and Young LLP, IBM Canada Ltd., American Express and many others.

At minimum, the organizations had to have a stated commitment to diversity; be organized in the community by assessors or peers; employ diversity-sensitive recruitment; have structured managerial accountability; and have specific accommodations for cultural differences.

How are we treating our visible minority population today? According to the Conference Board report, not very well at all. Their research found as a fact that visible minorities are four times more likely to experience discrimination on the job than individuals who do not belong to a visible minority group. Visible minorities earned 11 per cent less than the Canadian average in 1991. Instead of decreasing, this gap increased to 14.5 per cent in the year 2000. If you are Black, you make even less.

Honourable senators, think of the potential; of the untapped resources that visible minorities could add to Canada's economy. Consider this statistic: in 2001, the disposable income of employed, working-age visible minorities in Canada was estimated at C\$78 billion, based on calculations of Statistics Canada in the 2001 census and Canada's average income tax rates. Visible minorities represented approximately 39 per cent of the consumer market in Vancouver, 48 per cent in Toronto and 20 per cent in Montreal. Think of the possibilities for our economy with that \$78 billion in disposable spending power!

Unquestionably, visible minorities can be hugely significant contributors to our nation's workforce, but we must break down the racist barriers that block their advancement and potential. That is why I have delivered more than 40 speeches in the past 12 months in the Senate, across Canada, in the United States and around the world about the barriers that visible minorities face in the workforce, in both the private and public sectors.

In April, for instance I travelled to Brasilia, Brazil, to speak at a landmark international conference on diversity entitled "Advancing Racial Equity: A Dialogue on Policies." I was asked by Brazilian officials to speak on how Canada's multicultural framework has functioned as an institutional model for integrating racial and ethnic minorities. My speech focussed on how Canada is a country of immigrants, whose economic success is predicated on our ability to attract ethnic minorities from around the world. In Canada, racial integration is an economic necessity.

In March, an article that I authored on corporate diversity entitled Achieving Results Through Diversity: a Strategy for Success was published in the Ivey Business Journal. My article outlined how a diversity of cultures and opinions at all levels in the workplace can provide more creative solutions and improve managerial decision-making. I also underscored the urgency for companies, and CEOs especially, to take action. In June, I was invited by government officials to speak at a federal government-sponsored conference in Moncton, New Brunswick, entitled "Diversity by Design."

Honourable senators, everywhere I travel, I meet Canadians of colour who tell me the same thing: Canada's workforce does not resemble the current face of Canada and we, as parliamentarians and public policy makers, need to take the necessary steps to make it happen. Indeed, there are several public policy makers, senior bureaucrats and corporate executives who have taken action and are implementing reforms to better reflect the changing face of Canada. In my closing minutes, I wish to acknowledge three of them.

First, Ms. Maria Barrados, President, Public Service Commission of Canada, has spearheaded a new departmental initiative whereby the Public Service Commission will hold deputy heads accountable for the promotion of executive staff positions, EX-01, within the public service.

Next, Ms. Maryantonett Flumian, Deputy Minister, Service Canada, who was formerly the Associate Deputy Minister, Human Resources and Skills Development Canada. During that time, Ms. Flumian conducted a departmental employment equity staffing initiative to hire at least 10 new EX-01 candidates who were members of an Employment Equity designated group. Her department received more than 400 applications from across the public service. Under her leadership, the department was able to promote 13 Employment Equity group members to EX-01 positions. Eight of those new executives were members of a visible minority group.

Finally, honourable senators, the Clerk of the Privy Council, Alex Himelfarb, should be commended for his work to promote the advancement of visible minorities in Canada's public service. In June, Mr. Himelfarb launched a new development program at the Privy Council Office aimed at three Employment Equity designated groups. The program is aimed at candidates who have the potential to become senior executives in the public service. Deputy ministers will be directly responsible for supporting and encouraging the development of those involved in the new programs. In short, they must become mentors. The Clerk of the Privy Council also appointed Errol Mendes, currently Professor of Law, University of Ottawa, as a senior advisor to the Privy Council Office.

In conclusion, an inclusive workforce free of racism and discrimination will not simply happen; we must make it happen. Diversity will not suddenly appear; we must put it there. As Martin Luther King Jr. said:

There is nothing more dangerous than to build a society with a large segment of people in that society who feel that they have no stake in it; ...

Honourable senators, as public policy makers, we are in a unique position. The face of Canada is clearly changing; so, too, must our public and private institutions. It is our duty as parliamentarians to facilitate that change.

Hon. Jerahmiel S. Grafstein: Would the honourable senator take a question?

The Hon. the Speaker: Senator Grafstein is rising on a question, and I must remind Senator Oliver that his time has expired.

Senator Oliver: Honourable senators, may I have time to take a question from the honourable senator?

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Grafstein: The honourable senator makes an overwhelming case for systemic discrimination within the confines of the Senate as an institution. I am not sure that we can allow those statements to go unchallenged. It is important that the Chairman of the Standing Committee on Internal Economy, Budgets and Administration, the leadership on both sides, the Speaker and the Clerk of the Senate respond to that statement with an action plan.

I am unsure to whom else the comments of the honourable senator were directed. If the facts that he laid out for the house are correct, and I have no reason to believe that they are otherwise, then that is a condemning accusation against every person in this chamber, and it must be responded to with immediate remediation. I would hope that, rather than applaud the honourable senator, the house would take action and respond within a given period of time before the end of the calendar period with an action plan to implement specific strategies and employment practices that would dissolve his words, with which I agree, "systemic racism and discrimination." I would hope that responsible senators in this chamber would respond, and I will take the adjournment to allow them an opportunity to do so.

Senator Oliver: Honourable senators, I thank Senator Grafstein for his question, to which I would like to respond briefly. Before presenting my remarks today, I sent an advance copy to the Chairman of the Standing Committee on Internal Economy, Budgets and Administration and to the Clerk of the Senate. I have spoken with the Speaker of the Senate on several occasions about my concerns. I spoke this morning with the Clerk of the Senate, Mr. Bélisle, who does in fact have an action plan. I said to the clerk that as soon as his action plan is in effect in the next few months it is my intention to stand up in this chamber and report to honourable senators on the success that he has had.

• (1520)

Hon. Serge Joyal: I thank the honourable senator for his remarks this afternoon. I would like to bring to his attention the decision of the Supreme Court of Canada last May in the Vaid case. Senators will remember that the driver of the former Speaker of the House of Commons alleged discrimination on the basis of race. Justice Binnie, speaking on behalf of the unanimous court, pointed out that privileges would not stand in the case of systemic discrimination. I do not have the case in front of me as I did not know that we would be debating this issue. However, I want to bring to the attention of the honourable senator the decision of the court on that very section. Maybe in a further discussion we could come back to it.

Senator Andreychuk, under Motion No. 120 on today's Order Paper, calls upon the Senate to review the issue of developing a systematic process for the application of the Charter of Rights and Freedoms as it applies to the Senate.

The issue the honourable senator raises is important in relation to Senator Andreychuk's interest. I think it is a concern shared by all senators. If we are of the opinion that something must be done to put the employees of our chamber at par with the high standards of respect for human rights that are enshrined in the Charter, we have to do that soon.

Senator Grafstein: I will take the adjournment, but in the interim I will consult with all the other officials that I mentioned, including the chairman of the committee, and ask that they respond publicly to the senator's inquiry.

On motion of Senator Grafstein, debate adjourned.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

MOTION TO AUTHORIZE COMMITTEE TO STUDY PARKS CANADA HISTORIC SITES— DEBATE ADJOURNED

Hon. Serge Joyal, pursuant to notice of June 29, 2005, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology study the following and report to the Senate within three months after the adoption of this motion:

- The designation by the Historic Sites and Monuments Board of Canada of the Montreal residence of Louis-Hippolyte La Fontaine, Prime Minister of United Canada from 1841-42 and 1848-51, located on Overdale Street as a National Historic Monument to be purchased and managed by Parks Canada;
- 2. The creation of an Interpretation Centre at this La Fontaine residence for the purpose of promoting knowledge about the development of Responsible Government in Canada including the part played by Robert Baldwin, co-Prime Minister and Attorney General of Upper Canada, Joseph Howe from Nova Scotia, Charles Fisher from New Brunswick, and Lord Elgin, then Governor General of United Canada;
- 3. The role of Parks Canada in establishing a network of historic sites across the country to promote an understanding of our parliamentary democracy and the contributions made to this end by various Prime Ministers throughout our history.

He said: Honourable senators, I rise this afternoon on an issue that might appear strange for some senators. I rise to draw your attention to the fact that in Montreal there still exists the former residence of Louis-Hippolyte La Fontaine. The time that he was Prime Minister of Canada, from 1849 to 1851, was a crucial time in Canadian history.

Honourable senators, I am happy to speak to this motion today. Many in this chamber will realize from my presentation that they also have a concern for its subject matter.

I draw the attention of honourable senators to the fact that on the Hill beside Parliament there is a monument called the monument to La Fontaine and Baldwin. Those two co-Prime Ministers of Canada, from 1849 to 1851, played a determining role in our country. They presided over the changing of the fundamental system of government in Canada from a colonial government to what we call responsible government.

What is the responsible government concept? It is essentially the concept that the party that forms the government has the majority in the House, and that the Governor General calls upon the leader of the majority party to form the government and cannot pick or choose whomever he or she would want to have as Prime Minister of Canada.

What seems to us today a simple was the result of a long fight in Canada. In 1836-37, with William Lyon Mackenzie in Upper Canada and Louis-Joseph Papineau in Lower Canada, there were rebellions. One of the main objectives of the rebellions was to draw the power from the hands of the Governor General and to give it to the leader of the party with the majority in the house of assembly. Why? It is because the people who occupied the seats in the house of assembly had been elected. They had not been chosen from among the friends of the Governor General. That was the way that Canada was governed. The Governor General could pick and choose from his own friends and, of course, could dismiss any recommendation made by the assembly on the basis that he had an internal yeto.

We changed the colonial form of government to a democratic form of government in 1849. How did that happen? It happened because of a French Canadian and an English Canadian, one from Lower Canada and the other from Upper Canada, who decided to put the assembly to a test. What did they do? One proposed that the new Speaker speak in both English and French; in other words, that he be bilingual. There was a vote and the proposal passed. When it was sent to the Governor General, he vetoed it. He refused it. He dismissed the government on that basis. It was on the selection of a bilingual Speaker that the principle of responsible government, of democratic government, was established in Canada. That happened in 1849.

The new government of La Fontaine and Baldwin adopted two specific measures that triggered a revolution among the local population. They presented in the house of assembly legislation to indemnify those who had suffered loss in the previous rebellion of 1836-37. Of course, that bill was adopted. They were a majority government, but there were many among the population who were opposed to indemnifying the victims of the rebellion. They assembled in front of Parliament, which was in Montreal at that time — and they burned down the Parliament building. Not only did they burn it down, but the mob went to La Fontaine's house and set the fire to it. They wanted to kill the Prime Minister. They

were so incensed at the idea that a majority comprising a large number of French Canadians would form the Government of Canada that they rebelled. Mr. La Fontaine escaped by the back door. He saved himself and his wife, and the mob dispersed.

Three months later, when the Prime Minister came back to his house, the same mob reappeared in front, but the police had been informed. One man was shot down and 15 were seriously wounded.

Honourable senators, this fight for responsible government, for democratic government in Canada, is a very long one that not only happened in Upper and Lower Canada but happened at the same time in Nova Scotia. In fact, most Nova Scotians know—and I see Senator Cowan here today—that Joseph Howe, a former Premier of Nova Scotia, achieved responsible government two months before La Fontaine and Baldwin achieved it.

I see senators here today from Prince Edward Island. In Prince Edward Island, it was Premier George Coles who achieved responsible government two years later, in 1851. In New Brunswick, it was Premier Charles Fisher, who achieved it in 1854. In Newfoundland, "Prime Minister" Philip Francis Little achieved responsible government in 1855. In other words, in Atlantic Canada and Central Canada at that time, the movement to have a democratic government was the key political issue of the day. The key objective of achieving democracy was that the government be formed through the representatives of the majority who succeed at being elected to the house of assembly.

• (1530)

Honourable senators, returning to the motion, 20 years ago or so, a developer bought the site of the La Fontaine residence. No one had the slightest idea that it was the residence of the first prime minister of a democratic Canada. They wanted to pull it down. A group of citizens, under Heritage Montreal, which is a pressure group that tries to save good buildings in Montreal, succeeded in convincing the City of Montreal to recognize the site as an historical site. However, since 1988, the house has been vacant. It is boarded up now, as senators can see in those photographs that I should not be holding up. I do not think the rules allow us to do that. The house was boarded up and vacated. Since then, nothing has happened. The house is still there. Occasionally squatters move in, and then the police must come and remove them.

This motion, honourable senators, is to ask the Historic Sites and Monuments Board of Canada to recognize that house as a national historic site, much as Sir George-Etienne Cartier's house in Montreal is recognized. It has been restored and is used as an interpretive centre commemorating the first years of Confederation and the late 1860s when the Fathers of Confederation met in Charlottetown and negotiated and then met at the Quebec conference in 1864 to define the conditions of Confederation.

[Translation]

Honourable senators, this house is very important because it illustrates the partnership between an English Canadian and a French Canadian who for the first time expressed the idea of what

was to become the foundation of Canada. Canada is essentially founded on this partnership between two linguistic communities that originally decided to define the terms of their coexistence within a democratic government structure.

I believe that this house, which is still standing, should become one of the historical monuments in Canada that tell Canadians and future generations how our democratic government was formed, not only for Upper and Lower Canada, but for Nova Scotia, Prince Edward Island, New Brunswick and Newfoundland and Labrador, because at that time, all of the provinces were engaged in the struggle to make the government of this country a democratic government.

The objective in protecting and preserving this house is not to decorate it or refurnish it to make it look like it might have looked when Louis-Hippolyte La Fontaine lived there, as all of Louis-Hippolyte La Fontaine's furniture and other personal effects are gone. What is important is to use this site in the middle of Montreal between Mackay and Bishop streets, directly across from Concordia University.

[English]

It is very much downtown. It is not remote. In other words, if it is transformed into an interpretive centre, it will be in the area where university students are located. It is so close to the downtown area that it will be easy to integrate it into the tourist network. It will not be a ghost monument. It will be a living monument because of its integration into the historical circuit that exists in downtown Montreal.

Honourable senators, this is a very important initiative, and I would like this motion to be referred to the Standing Senate Committee on Social Affairs, Science and Technology, perhaps to the subcommittee that Senator Losier-Cool proposed to us today to specifically deal with cultural issues.

It is important, honourable senators, that we remind Canadians that Canada is not a country that was built instantaneously. It is the result of a long evolution. Democracy does not happen by the stroke of a pen. Democracy is the result of a long process of maturation. It is a long process of fight and public debate. Every day, we are the living proof that democracy is at work. Democracy started at a point in time in our colonial history. There was a critical moment in our history where we stopped being ruled as a colony and became a democratic government. When Confederation was achieved, there was already a democratic form of government in place.

Honourable senators, I commend your interest for this proposal. In downtown Montreal, Quebecers and tourists should know that a partnership between an Upper Canadian leader, Robert Baldwin, and a French Canadian leader, Louis-Hippolyte La Fontaine, achieved a democratic government. In fact, when the two major linguistic communities of Canada at that time united, forgot about their differences and defined a common and joint objective, they were able to achieve a higher good for the community.

I sincerely ask for the support of honourable senators so that this motion will be sent to committee. My hope is that the committee will report to us that Parks Canada, which is responsible for the Historic Sites and Monuments Board, should consider the recognition of that house as a national historic monument.

Hon. Anne C. Cools: Honourable senators, I have been listening to Senator Joyal with some interest. He knows that I have a profound interest in the movement toward the Act of Union of 1840, which is, in essence, the substance of his proposition.

It is curious, however, that, as the honourable senator has scripted and drafted his motion, he seems to have left out a most salient individual, being Lord Durham. It is a fact that the Baldwins, both Robert Baldwin and his father, William Warren Baldwin, were able to prevail and have an influence on Lord Durham.

The honourable senator also does not bring out in his motion the successes that were gained — and they were significant and important — nor the subsequent failure of this union of Upper and Lower Canada, which failure then reopened the entire debate, and caused the impetus toward Confederation. I would have thought that the Lord Durham report was so significant — I did a paper on that many years ago — that it should have been mentioned in the text of the motion.

The thrust for responsible government came from Ontario, Upper Canada. This is something that is rarely understood. This group of individuals called themselves the Reformers, including William Lyon Mackenzie, William Warren Baldwin and Robert Brown.

The Family Compact was fierce with them. Much of the problem was the abuse and the excess of power by this tiny minority of people who, in the earlier days of the existence of Upper Canada, had been extremely able and extremely competent, but at the later stage, when it was time to move on and to share power, they certainly refused. I can tell my honourable friend that they were ruthless. They used their political power judicially in the courts by their friends the judges. In the courts, their friends and judges used their judicial power politically.

• (1540)

I wonder if you intend to -

The Hon. the Speaker: I am sorry to interrupt, but your time has expired.

Senator Cools: I beg your pardon, Your Honour. This is not Question Period. I can have a debate in the form of a question because I am reciting what I think Senator Joyal is asking the Senate to do —

The Hon. the Speaker: Order, please.

Senator Stratton: You have to sit.

Senator Cools: — is asking the Senate —

The Hon. the Speaker: Senator Joyal.

Senator Cools: This is foolish. He has no business standing.

The Hon. the Speaker: I regret that the honourable senator's speaking time has expired. I am sorry, Senator Joyal.

Senator Joyal: May I seek the concurrence of the house so that I may have five minutes more?

Senator Cools: Agreed.

Hon. Bill Rompkey (Deputy Leader of the Government): I think we could agree on five minutes more. We do have to place some limitation on the debate, however.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Cools: I was asking the Honourable Senator Joyal if he had given it thought. I raised this point because, in recent times in Quebec, there has been much slight on the role of Lord Durham. That has caused me grave concern. Also, William Lyon Mackenzie was such a formidable man until he was broken by whatever forces drive people to extremes. I was wondering if there is any way that the honourable senator can amend his motion to include another clause to specifically mention these particular areas of concern.

Another issue — and I will speak to this at some point in time, to bring it out — was the major quarrel that the Reformers had with the Family Compact on the question of "judicial independence." As the honourable senator will know, the Baldwins were successfully able to persuade Lord Durham that judicial independence was important.

Is there any possibility of ensuring —

Senator Rompkey: Five minutes is going quickly.

Senator Cools: Well, Your Honour, I move the adjournment of the debate. The five minutes is up.

The Hon. the Speaker: There is some time for the honourable senator to respond.

Senator Joyal: I would certainly allow another question within the five minutes.

Senator Cools: Sure. It would suggest, and it would seem to me, honourable senators, that Senator Joyal is asking for support on this matter. It would seem to me that a bit of debate would be in order, I would think. I would love to hear the honourable senator's answer because he knows exactly what I am talking about. I think that history must reveal the proper role of these individuals.

Hon. Joan Fraser: Your Honour, I actually wished to speak briefly to this motion, after which, if Senator Cools wishes to take the adjournment, I would be delighted.

The Hon. the Speaker: I assumed the honourable senator was rising to put a question.

Senator Joyal, do you wish to comment?

Senator Joyal: Yes, I will then leave the floor to Senator Fraser. I still have a minute remaining.

The Honourable Senator Cools is absolutely right. It is on the basis of the Durham report that the Union Act of 1840 was adopted by Westminster. The sense of the report was to unite Lower Canada and Upper Canada into one province. That became very difficult to govern because the House of Assembly was divided 24 MPs for Upper Canada and 24 MPs for Lower Canada. If you have a 50-50 split, and they are always in disagreement — French Canadians coming from Lower Canada and English Canadians coming from Upper Canada — that is not a government that can succeed in ruling. The ministry of that time, as the honourable senator knows, lasted two months, three months. There was a succession of ministries. It proved to be an ungovernable system. Why?

Senator Prud'homme: And unfair, too!

Senator Joyal: Because the Governor General, as the honourable senator has mentioned, was picking his legislative counsellor from the Family Compact. That drove some political leaders to say that there must be a sense of democracy. They used the British constitution to claim for themselves the same measures of democracy in Canada that existed in London at that time. They used the British system to rescue democracy in Canada at the very moment that Lord Durham was even proposing a responsible form of government. The secretary to the colony at that time hesitated to give that to Canada because there was resentment among a minority in the population.

The honourable senator is totally right. There is the context within which responsible government happened and it should be part of the interpretive centre. There is not a single Canadian historian who would want to start democracy in 1848 and not take into account the overall context.

I thank the honourable senator for her knowledge and initiative in bringing that matter back to our attention this afternoon. It will be certainly considered by the committee when we study the motion in greater depth.

Senator Cools: The other question I had for the honourable senator is this: Why is he choosing to ask the Senate to refer this matter to the Standing Senate Committee on Social Affairs, Science and Technology? It seems to me that the Standing Senate Committee on Legal and Constitutional Affairs would be the committee better equipped to look at the complexity of issues involved in this subject. I am curious.

Senator Joyal: Essentially, honourable senators, because the issues related to Parks Canada are normally sent to the Standing Senate Committee on Social Affairs, Science and Technology. As Senator Losier-Cool has mentioned this afternoon, it has a cultural impact, too. The issues related to Parks Canada and cultural affairs are normally directed to that committee. That is essentially the reason, not because there is no constitutional compact. Of course, it is the history of the constitutional evolution of Canada.

[Translation]

Senator Fraser: Honourable senators, I should like to begin by thanking you for your indulgence. I know it is late, but I wanted to speak to you briefly, as Senate business is going to keep me away for a while after today.

I would simply like to say that I enthusiastically support Senator Joyal's motion. The subject strikes me as a perfect example of issues that the Senate is able to address when no one or almost no one else wants to.

This house is an important part of the history of our country. Important though it may be, it is often easy to lose sight of the facts in some contexts.

There is no shortage of historic sites in Montreal. Unfortunately, there is never enough money to preserve everything that is worth preserving.

The events described by Senator Joyal, which surrounded the history of the residence, may not be very pleasant for some of us. For Montreal anglophones, for example, this was one of the darkest moments in our history. It was anglophones who rioted and burned La Fontaine's residence. We do not really like to be reminded of those events, and I am entitled to say that because I represent that community.

For some Quebecers who would like to leave Canada, it is not good to think that there is a monument to Canadian democracy that can be preserved. Their plan does not include creating a museum in the very heart of Montreal to recall the inspiring story of the development of democracy in Canada.

We in the Senate have a role, mandate and responsibility to study these matters and ensure that what needs to be done is done.

I therefore enthusiastically support this motion. I hope that the matter will be referred quickly to the Standing Senate Committee on Social Affairs, Science and Technology, that the report will be favourable and that the government will then be pressured to act on what I hope will be the outcome of the committee's study.

Hon. Marcel Prud'homme: I am going to take a very active part in this debate in due course. However, there is still one question that I have been wondering about for 50 years. I would like to take advantage of this unique opportunity today to put the question to a great expert.

• (1550)

[English]

Would she be kind enough to define for me what the difference is between English and anglophone? I know who I am. I am not a francophone.

[Translation]

I am first and foremost a French Canadian and a francophone. I do not think there is any need to be afraid of calling things by their proper name. I often get the impression that in some debates, and I know that Senator Fraser, having been a most eminent editor with the Montreal Gazette, could perhaps help me in my public reflection; what distinction does she make? She spoke of the English and all of a sudden referred to anglophones. Personally, I would like to know if there is a subtle difference, because I know there is one.

[English]

There is no doubt. You see that in the speech I have, but can I ask kindly if she could enlighten me?

Senator Fraser: Briefly, senators, and because of the late hour this will be the only question I take.

I know who I am, too. My ancestors were not English, they were Scottish. They were not well treated by the English of the day, to put it mildly. If you would care to read about the Highland Clearances you will learn all about it.

Senator Prud'homme: Scotland used to be a French ally.

Senator Fraser: English-speaking Montreal, or what is sometimes called English Montreal, is a wonderfully diverse population. It includes people whose ancestors came here from England, Scotland, Ireland, Wales and dozens of other countries. They came to Montreal. They joined our community. In the case of the ones I am talking about, the official language of Canada that they chose to learn and identify with was English, but they can be Ukrainian Canadians and they can be many, many kinds of Canadians. They are not necessarily of English ancestry. Thus, we have come to refer to them as anglophones because they use the English language.

I have, somewhere in my background, about one eighth of English ancestry. All the rest were Scots, and they would not thank me for forgetting them, Senator Prud'homme.

On motion of Senator Cools, debate adjourned.

BANKING, TRADE AND COMMERCE

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE— DEBATE ADJOURNED

Hon. Jerahmiel S. Grafstein, pursuant to notice of September 28, 2005, moved:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to sit at 3 p.m., on Wednesday, October 19, 2005, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

He said: Honourable senators, today is a perfect example of the problems we are facing in the Banking Committee. We have a tremendous amount of information of a timely nature to present to the Canadian public and to the government. The number of sitting days is limited and our sitting time is curtailed. Therefore, I would hope that the Senate would see fit to allow us to proceed to our next study on demographics.

The Prime Minister, several weeks ago, mentioned demographics as one of the key components of a macroeconomic approach to re-engineering the future of Canada. We think it is a serious problem. We hope to cram this topic into two days of hearings, therefore I hope that the Senate would see fit to allow us to meet earlier on the days in order to take all the evidence in hand and put it forward in a balanced manner.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, when the Senate is sitting, there is an unwritten rule that we agree to allow committees to meet while the Senate is sitting should there be a minister in attendance at the meeting; otherwise no. I have not heard anything from the honourable senator that allows that. Unless he tells us that there is a minister at three o'clock, I do not think we can do that on this side.

Senator Grafstein: I am asking for extraordinary consent here for a number of reasons. One of the reasons I have mentioned is that we have 22 witnesses to cram into two days of hearings. Including these witnesses, we have international witnesses coming from the World Economic Forum, from the United Nations Population Division. To get all this information forward in this extraordinary hearing — which we think is being delivered to the Senate on a cost-effective basis — we need an extra hour or two. I hope that the Senate would see fit, having in mind that we have a number of new additions to the Senate, that we would not impede the work of the chamber while we are proceeding with this important work.

Senator Stratton: My concern is why the honourable senator cannot extend on the other end, to go later? Surely to goodness he can find a committee room that would be available that could allow the extension. Has that avenue been explored?

When is the normal sitting time for the honourable senator's committee?

Senator Grafstein: The sitting times for the Banking Committee are Wednesday afternoon and Thursday morning. The problem is that we are caught in a programming issue as well. We want these hearings to be not only on CPAC but to be live on the World Wide Web. The reason for that is that the implications of this hearing does not affect just Canada, it affects Canada in its relationship to its other partners within the Organisation for

Economic Co-operation and Development. We think it is important that when the Senate, on a cost-effective basis, has a hearing and we invite international witnesses to attend that we do not curtail their evidence, and without in any way, shape or form impeding the work of this chamber.

Senator Stratton, we have tried in our committee to do something that has not been done before. We are taking long-term studies and we are trying to put them in a short time-frame so we can respond with timely reports.

Many times — and this is not to be critical of any committee of the Senate — we have a hearing, it takes a prodigious amount of time to get the evidence, it takes a prodigious amount of time to get the report, and sometimes the report is not consistent with the timing of the issue.

The Prime Minister has made this subject a priority in a statement two weeks ago.

Senator LeBreton: So the Prime Minister is running the Senate now.

Senator Grafstein: As far as I am concerned, that should give us a clear direction that this issue is important not only for this chamber but for the economy as a whole.

Senator Stratton: I have a great deal of difficulty because we are making an exception. Once you make an exception it becomes the rule.

Senator Prud'homme: Exactly!

Senator Stratton: How can we then deny any committee in this chamber from coming here and requesting to sit at three o'clock on a Wednesday? We cannot do that because they would be able to refer back to the exception of the honourable senator and say that we did it for the Banking Committee, why not do it for their committee. That is the problem.

Second, we will at that time have 23 members on our side. We have a great deal of difficulty manning the committees and this chamber at the same time. Therefore I cannot, in good judgment, do this for those two reasons. I cannot agree to it.

The honourable senator needs to explore other alternatives, and he has two weeks to do that. I will not agree to the exception without a minister present. Otherwise this chamber would be empty. Committees could come in here and ask to meet at any time they wanted. The honourable senator has not given a good and sufficient reason for doing that.

Hon. Bill Rompkey (Deputy Leader of the Government): I wonder if we might be able to stand the motion and have some time to negotiate. We still will have time when we come back to deal with it, and hopefully we can work out a solution in that time.

Senator Grafstein: I appreciate the comments of both Senator Stratton and Senator Rompkey on this matter, and I hope that they will consider it. I hope that they will consult with the Conservative members of the committee, who I think will support this initiative, including the Deputy Chairman, Senator Angus.

Hon. Marcel Prud'homme: Honourable senators, the official opposition does not need my help, but I will give another point of view.

We have had this debate often in the past, and I was not very popular when I said "no," for the exact reason that Senator Stratton has well expressed.

Senator Rompkey has a motion to adjourn. We will come back that Tuesday. It will be a fait accompli; he will ask us whether we mind sitting at 3 p.m. I have strong reservations, and I maintain them. They have nothing to do with the Standing Senate Committee on Banking, Trade and Commerce. I was put on that committee by accident and I left quickly and went to the Foreign Affairs Committee. Now I wish to return to the Banking Committee. I am sure that one of our distinguished colleagues who arrived yesterday is eager to go to the Banking Committee to replace the former Senator Kolber.

Having said that, we made a concession; we had a long debate; we agonized, and yesterday the Speaker rose at 4 p.m. sharp and declared the Senate adjourned.

However, I wish to advise our new colleagues that we had debated this matter for a long time. It is difficult, once you say "yes" to one, to say "no" to someone else. We had a long debate and we determined that at 4 p.m., regardless of what was happening, His Honour the Speaker would rise and say that it being 4 p.m., the Senate is adjourned. All items on the Order Paper stand in their place and we continue on the next day where we left off the previous night.

Therefore, although I know that it would not be agonizing for Senator Stratton to say "no," without pleasure but because of the principle laid out and the precedent it would create, I will say no.

Senator Stratton: If Senator Rompkey would take the adjournment, perhaps we can resolve this issue in another way. I do not want to deny the work of the committee, but I cannot accept the matter as it now stands.

The Hon. the Speaker: It is moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Losier-Cool, that further debate be adjourned to the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move: That when the Senate adjourns today, it do stand adjourned until Tuesday, October 18, 2005, at 2 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Marcel Prud'homme: Honourable senators, I could speak for hours, but I know the time is limited. I know that some are looking at the clock.

I wish to ask the leadership to impress upon the government of the day that the Senate has a job to do. I regret that we could not have found important work to do. There are many things that the House of Commons does not have time to do. Why should they look into the matter of the price of oil and gas? Why do we not ask the appropriate committee to look into that? Why should we leave it to the House of Commons to look into the conduct of Mr. Dingwall? The House of Commons does not have time to do that. I was there for 30 years and I know that they do not have time.

Perhaps the Deputy Leader of the Government and all those who claim to be the leadership should tell the Prime Minister to bring forward legislation so that we who are paid to do a job do not have to adjourn for two weeks. I hear that we will adjourn for two weeks during November as well. I am becoming more and more uncomfortable, because there are so many concrete studies that could be done in the Senate that they have no time to do in the House of Commons.

I will not object, of course, if you put the question.

Hon. Anne C. Cools: A few moments ago, His Honour said that it is moved by Senator Rompkey that the debate be adjourned.

Senator Rompkey: I sure did.

Senator Cools: Senator Rompkey did not make any such motion. He said earlier that the order should stand.

Senator Stratton: It was moved and adopted.

Senator Cools: I know, but he never moved it.

Senator Stratton: Yes, he did.

Senator Cools: No, he said we should stand it. That is what he said.

The Hon. the Speaker: I will take that as a point of inquiry.

The motion was moved by Senator Rompkey and seconded by Senator Losier-Cool. As in all other cases, I asked senators if they agreed to the motion. As no senator rose, I said it was agreed.

Are we ready for the question, honourable senators?

Hon. Senators: Question!

The Hon. the Speaker: No senator rising to speak, I will put the question.

Is it your pleasure, honourable senators, to adopt the adjournment motion?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, October 18, 2005, at 2 p.m.

THE SENATE OF CANADA PROGRESS OF LEGISLATION

(indicates the status of a bill by showing the date on which each stage has been completed)

(1st Session, 38th Parliament)

Thursday, September 29, 2005

(*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)

GOVERNMENT BILLS

	1.00	48t	puc	(SENATE)	Report	Amend	3rd	R.A.	Chap.
No.	Title	-	7	long it it is a contract of the contract of th	04111105	C	04/12/02	04/12/15	25/04
S-10	A second Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	04/10/19	04/10/26	Legal and Consututional Affairs	67/11/40	observations			
S-17	An Act to implement an agreement, conventions and protocols concluded between Canada and Gabon, Ireland, Armenia, Oman and Azerbaijan for the avoidance of double taxation and the prevention of fiscal evasion	04/10/28	04/11/17	Banking, Trade and Commerce	04/11/25	0	04/12/08	05/03/23*	8/05
S-18	An Act to amend the Statistics Act	04/11/02	05/02/02	Social Affairs, Science and Technology	05/03/07	0	05/04/20	62/90/90	31/03
8-31	An Act to authorize the construction and maintenance of a bridge over the St. Lawrence River and a bridge over the Beauharnois Canal for the purpose of completing Highway 30	05/05/12	05/06/07	Transport and Communications	05/06/16	0	05/06/21		
S-33	An Act to amend the Aeronautics Act and to make consequential amendments to other Acts	05/05/16	Bill withdrawn pursuant to Speaker's Ruling 05/06/14						
S-36	An Act to amend the Export and Import of Rough Diamonds Act	05/05/19	60/90/90	Energy, the Environment and Natural Resources	05/06/16	0	05/06/20		
S-37	An Act to amend the Criminal Code and the Cultural Property Export and Import Act	05/05/19	05/06/15	Foreign Affairs	05/06/29	0	05/07/18		
S-38		05/05/31	05/06/15	Agriculture and Forestry	05/06/23	m	05/07/18		
S-39		02/06/07	05/06/15	Legal and Constitutional Affairs					

Chap.

R.A.

3rd

Amend

Report 05/09/29

Committee Social Affairs, Science and Technology

2nd 05/06/30

1st 05/06/09

> An Act to amend the Hazardous Materials Information Review Act

No. S-40

T BILLS	OMMONS)
GOVERNMENT BILLS	(HOUSE OF COMMO

Š	Title	1st	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act	05/06/14	05/06/20	Legal and Constitutional Affairs	05/07/18	0 observations	05/07/19	05/07/20*	32/05
C-3	An Act to amend the Canada Shipping Act, the Canada Shipping Act, 2001, the Canada National Marine Conservation Areas Act and the Oceans Act	05/03/21	05/04/14	Transport and Communications	60/90/50	0 observations	05/06/22	05/06/23*	29/05
40	An Act to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment	04/11/16	04/12/09	Transport and Communications	05/02/15	0	05/02/22	05/02/24*	3/05
C-5	An Act to provide financial assistance for post-secondary education savings	04/12/07	04/12/08	Banking, Trade and Commerce	04/12/09	0 observations	04/12/13	04/12/15	26/04
9-0	An Act to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts	04/11/18	04/12/07	National Security and Defence	05/02/22	0	05/03/21	05/03/23*	10/05
C-7	An Act to amend the Department of Canadian Heritage Act and the Parks Canada Agency Act and to make related amendments to other Acts	04/11/30	04/12/09	Energy, the Environment and Natural Resources	05/02/10	0	05/02/16	05/02/24*	2/05
ф О	An Act to amend the Financial Administration Act, the Canada School of Public Service Act and the Official Languages Act	05/03/07	05/03/21	National Finance	05/04/14	0	05/04/19	05/04/21*	15/05
6-0	An Act to establish the Economic Development Agency of Canada for the Regions of Quebec	05/06/02	05/06/08	National Finance	05/06/16	0	05/06/21	05/06/23*	26/05
C-10	An Act to amend the Criminal Code (mental disorder) and to make consequential amendments to other Acts	05/02/08	05/02/22	Legal and Constitutional Affairs	05/05/12	0 observations	05/05/16	05/05/19*	22/05
C-12	An Act to prevent the introduction and spread of communicable diseases	05/02/10	05/03/09	Social Affairs, Science and Technology	05/04/12	2	05/04/14	05/05/13*	20/05
C-13	An Act to amend the Criminal Code, the DNA Identification Act and the National Defence Act	05/05/12	05/05/16	Legal and Constitutional Affairs	05/05/18	0	05/05/19	05/05/19*	25/05
C-14	An Act to give effect to a land claims and self-government agreement among the Tlicho, the Government of the Northwest Territories and the Government of Canada, to make related amendments to the Mackenzie Valley Resource Management Act and to make consequential amendments to other Acts	04/12/07	04/12/13	Aboriginal Peoples	05/02/10	0	05/02/10	05/02/15*	1/05

9	Title	1st	2nd	Committee	Report	Amend	37.0	K.A.	Clap.
C-15	An Act to amend the Migratory Birds Convention Act, 1994 and the Canadian Environmental Protection Act, 1999	04/12/14	05/02/02	Energy, the Environment and Natural Resources	05/05/17	0 observations	05/05/18	05/05/19*	23/05
C-18	An Act to amend the Telefilm Canada Act and another Act	04/12/13	05/02/23	Transport and Communications	05/03/22	0 observations	05/03/23	05/03/23*	14/05
C-20	An Act to provide for real property taxation powers of first nations, to create a First Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority and First Nations Statistical Institute and to make consequential amendments to other Acts	04/12/13	05/02/16	Aboriginal Peoples	05/03/10	0	05/03/21	05/03/23*	9/05
C-22	An Act to establish the Department of Social Development and to amend and repeal certain related Acts	60/90/50	05/06/21	Social Affairs, Science and Technology	05/07/18	0	05/07/20	05/07/20*	35/05
C-23	An Act to establish the Department of Human Resources and Skills Development and to amend and repeal certain related Acts	05/06/02	05/06/14	Social Affairs, Science and Technology	05/07/18	0	05/07/20	03/07/20	01/0
C-24	An Act to amend the Federal-Provincial Fiscal Arrangements Act and to make consequential amendments to other Acts (fiscal equalization payments to the provinces and funding to the territories)	05/02/16	05/02/22	National Finance	05/03/08	0	05/03/09	05/03/10*	co/
C-26	An Act to establish the Canada Border Services Agency	05/06/14	05/06/29	National Security and Defence					
C-29	An Act to amend the Patent Act	05/02/15	05/03/07	Banking, Trade and Commerce	05/04/12	2	05/04/14	20/90/90	cn/81
C-30	An Act to amend the Parliament of Canada Act and the Salaries Act and to make consequential amendments to other Acts	05/04/13	05/04/14	National Finance	05/04/21	0	05/04/21	05/04/21*	16/05
C-33	A second Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004	05/03/07	05/04/20	National Finance	05/05/03	0	05/05/10	05/05/13	19/03
C-34	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 2, 2004-2005)	04/12/13	04/12/14	1	1	I	04/12/15	04/12/15	21/04
C-35	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 3, 2004-2005)	04/12/13	04/12/14	1	1	1	04/12/15	04/12/15	28/04
C-36		04/12/13	05/02/01	Legal and Constitutional Affairs	05/02/22	0 observations	05/02/23	05/02/24*	90/9
C-38		05/06/29	90/20/90	Legal and Constitutional Affairs	05/07/18	0	05/07/19	05/07/20-	33/02

An Act to amend the Federal-Provincial 05/02/22 05/03/08 Fiscal Arrangements Act and to enact An dat respecting the provision of funding for diagnostic and medical equipment and of the Canada Grain Act and 05/05/12 05/03/23 An Act to amend the Canada Grain Act and 05/03/22 05/03/23 sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 4, 2004-2005) An Act for granting to Her Majesty certain 05/03/22 05/03/23 sums of money for the public service of Canada for the financial year ending March 31, 2006 (Appropriation Act No. 1, 2004-2005) An Act for granting to Her Majesty certain 05/05/16 05/05/10	Z	Titla	181	buc	Committee	Report	Amond	2rd	0	Chan
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An Act for granting to Her Majesty certain 55/03/22 05/03/23 sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 4, 2004-2005) An Act for granting to Her Majesty certain 53/2005 (Appropriation Act No. 1, 2005-2006) An Act for granting to Her Majesty certain 53/2006/16 (Appropriation Act No. 1, 2005-2006) An Act to implement certain provisions of the budget tabled in Parliament on February 23, 2005 An Act to provide services, assistance and 05/05/10 (05/05/10 compensation to or in respect of Canadian Forces members and veterans and to make certain Acts and veterans and to make certain Acts and veterans and the Labrador Inuit Land Claims Agreement and the Labrador Inuit 12x Treatment Agreement An Act to give effect to the Labrador Inuit Cland Claims Agreement and the Labrador Inuit 3x Treatment Agreement and the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006) An Act to change the name of the electoral O4/12/02 (04/12/07 district of Kitchener—Wilmot—Wellesley—Woolwich	C-40	An Act to amend the Canada Grain Act and the Canada Transportation Act	05/05/12	05/05/16	Agriculture and Forestry	05/05/18	0	05/05/19	05/05/19*	24/05
An Act for granting to Her Majesty certain o5/03/22 sums of money for the public service of Canada for the financial year ending March 31, 2006 (Appropriation Act No. 1, 2005-2006) An Act to implement certain provisions of the budget tabled in Parliament on February 23, 2005 An Act to provide services, assistance and ocompensation to or in respect of Canadian Forces members and veterans and to make cortain Acts An Act to authorize the Minister of Finance 05/06/28 05/07/06 An Act to authorize the Minister of Finance 05/06/16 05/06/20 An Act to give effect to the Labrador Inuit Land Claims Agreement and the Labrador Inuit Tax Treatment Agreement An Act for granting to Her Majesty certain 05/06/16 05/06/21 sums of money for the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006) Title An Act to amend the Excise Tax Act 05/06/16 (elimination of excise tax on jewellery) An Act to change the name of the electoral o4/12/07 district of Kitchener—Wilmot—Wellesley—Woolwich An Act to change the name of the electoral o4/12/07 district of Battle River	247	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 4, 2004-2005)	05/03/22	05/03/23	Í	l	I	05/03/23	05/03/23*	12/05
An Act to implement certain provisions of the budget tabled in Parliament on February 23, 2005 An Act to provide services, assistance and compensation to or in respect of Canadian Forces members and veterans and to make amendments to certain Acts An Act to authorize the Minister of Finance 05/06/28 05/07/06 An Act to authorize the Minister of Finance O5/06/16 05/06/20 An Act to give effect to the Labrador Inuit Tax Treatment Agreement and the Labrador Inuit Tax Treatment Agreement An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006) Title An Act to amend the Excise Tax Act O5/06/16 (elimination of excise tax on jewellery) An Act to change the name of the electoral O4/12/02 04/12/07 district of Kitchener—Wilmot—Wellesley—Woolwich An Act to change the name of the electoral O4/12/02 04/12/07 district of Battle River	C-42	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2006 (Appropriation Act No. 1, 2005-2006)	05/03/22	05/03/23	1	1	\$	05/03/23	05/03/23*	13/05
An Act to provide services, assistance and 05/05/10 05/05/10 compensation to or in respect of Canadian Forces members and veterans and to make amendments to certain Acts An Act to authorize the Minister of Finance 05/06/28 05/07/06 to make certain payments An Act to give effect to the Labrador Inuit Tax Treatment Agreement and the Labrador Inuit Tax Treatment Agreement An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006) Title An Act to amend the Excise Tax Act 05/06/16 (elimination of excise tax on jewellery) An Act to change the name of the electoral 04/12/02 04/12/07 district of Kitchener—Wilmot—Wellesley—Woolwich An Act to change the name of the electoral 04/12/02 04/12/07 district of Battle River	C-43	An Act to implement certain provisions of the budget tabled in Parliament on February 23, 2005	05/06/16	05/06/21	National Finance	05/06/28	0	05/06/28	05/06/29*	30/05
An Act to authorize the Minister of Finance 05/06/28 05/07/06 to make certain payments An Act to give effect to the Labrador Inuit Tax Treatment Agreement and the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006) Title An Act to amend the Excise Tax Act (6/16) (elimination of excise tax on jewellery) An Act to change the name of the electoral district of Kitchener—Wilmot—Wellesley—Woolwich An Act to change the name of the electoral o4/12/02 04/12/07 district of Battle River	C-45	An Act to provide services, assistance and compensation to or in respect of Canadian Forces members and veterans and to make amendments to certain Acts	05/05/10	05/05/10	National Finance	05/05/12	0	05/05/12	05/05/13*	21/05
An Act to give effect to the Labrador Inuit Tax Treatment Agreement and the Labrador Inuit Tax Treatment Agreement An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006) Title An Act to amend the Excise Tax Act (6/16) An Act to change the name of the electoral district of Kitchener—Wilmot—Wellesley—Woolwich An Act to change the name of the electoral district of Battle River	C-48	An Act to authorize the Minister of Finance to make certain payments	05/06/28	90/20/90	National Finance	05/07/18	0 observations	05/07/20	05/07/20*	36/05
An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006) Title An Act to amend the Excise Tax Act (05/06/16 (elimination of excise tax on jewellery) An Act to change the name of the electoral district of Kitchener—Wilmot—Wellesley—Woolwich An Act to change the name of the electoral o4/12/02 (04/12/07 district of Battle River	C-56	An Act to give effect to the Labrador Inuit Land Claims Agreement and the Labrador Inuit Tax Treatment Agreement	05/06/16	05/06/20	Aboriginal Peoples	05/06/21	0	05/06/22	05/06/23*	27/05
An Act to change the name of the electoral district of Battle River	C-58	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006)	05/06/15	05/06/21	l	1	1	05/06/22	05/06/23*	28/05
An Act to amend the Excise Tax Act 05/06/16 (elimination of excise tax on jewellery) An Act to change the name of the electoral 04/12/02 04/12/07 Woolwich An Act to change the name of the electoral 04/12/02 04/12/07 district of Battle River				COMIN	COMMONS PUBLIC BILLS					
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An Act to change the name of the electoral 04/12/02 04/12/07 district of Kitchener—Wilmot—Wellesley—Woolwich An Act to change the name of the electoral 04/12/02 04/12/07 district of Battle River	C-259		05/06/16							
An Act to change the name of the electoral 04/12/02 04/12/07 district of Battle River	C-302	An Act to change the name of the electoral district of Kitchener-Wilmot-Wellesley-Woolwich	04/12/02	04/12/07	Legal and Constitutional Affairs	05/02/17	0 observations	05/02/22	05/02/24*	4/05
And the second s	C-304	An Act to change the name of the electoral district of Battle River	04/12/02	04/12/07	Legal and Constitutional Affairs	05/02/17	0 observations	05/02/22	05/02/24*	5/05

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An Act to amend the Official Languages Act O4/10/07 Gentroal Languages (O4/10/21 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	S-2	An Act to amend the Citizenship Act	04/10/06	04/10/20	Social Affairs, Science and Technology	04/10/28	0	04/11/02	05/05/05*	17/05
An Act to amend the Supreme Court Act (Sen. Cools) An Act to amend the Supreme Court Act (Sen. Cools) An Act to amend the Caparda Transportation An Act to amend the Supreme Court Act (Sen. Cools) An Act to amend the Caparda Matercardt in O4/10/107 An Act to amend the Caparda Matercardt in O4/10/107 An Act to amend the Copyright Act O4/10/107 An Act to amend the Copyright	S-3	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/10/06	04/10/07	Official Languages	04/10/21	0	04/10/26		
An Act to repeal legislation that has not 04/10/07 04/10/26 Communications (withdraw) royal assent (Sen. Banks) An Act to amend the Canada Transportation (Sen. Cools) An Act to amend the Surreme Court Act (Paper Paper Sen. Cools) An Act to amend the Comminal Code (lottery 04/10/07 04/10/10 04/10/	4	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/10/06	Dropped from Order Paper pursuant to Rule 27(3) 05/02/22						
An Act to amend the Canada Transportation 04/10/07 from Codes (Sen. Cools) An Act to amend the Judges Act (Sen. Cools) An Act to amend the Judges Act (Sen. Cools) An Act to amend the Ludges Act (Sen. Cools) An Act to amend the Crimial Code (lottery 04/10/07 04/10/19 04	လို	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	04/10/07	04/10/26	Transport and Communications (withdrawn) 04/10/28 Legal and Constitutional Affairs					
An Act to amend the Supreme Court Act (10/07) Puropped free free by Governor in Council) An Act to amend the Judges Act (Sen. Cools) An Act to amend the Criminal Code (lottery (Sen. Day) An Act to amend the Criminal Code (lottery (Sen. Day) An Act to amend the Constitution Act, 1867 (A10/19) (A110/19) (A1110/19) (A110/19) (A1110/19) (A111	9-8	An Act to amend the Canada Transportation Act (running rights for carriage of grain) (Sen. Banks)	04/10/07							
An Act to amend the Judges Act An Act to amend the Copyright Act Sen. Cools) An Act to amend the Copyright Act An Act to amend the Criminal Code (lottery Schemes) (Sen. Lapointe) An Act to amend the Criminal Code (lottery An Act to amend the Constitution Act, 1867 An Act to amend the Constitution Act, 1867 An Act to protect heritage lighthouses An Act to provent unsolicited messages on 04/10/20 An Act to prevent unsolicited messages on 04/10/20 An Act to prevent unsolicited messages on 04/10/20 Communications Communications	2-5	An Act to amend the Supreme Court Act (references by Governor in Council) (Sen. Cools)	04/10/07	Dropped from Order Paper pursuant to Rule 27(3) 05/02/22						
An Act to amend the Copyright Act 04/10/07 04/10/26 Social Affairs, Science and Technology (Sen. Day) An Act to amend the Criminal Code (lottery 04/10/19 04/10/26 Legal and Constitutional O5/04/12 observations Schemes) (Sen. Lapointe) An Act concerning personal watercraft in 04/10/19 05/06/01 Energy, the Environment 05/06/29 0 An Act to amend the Constitution Act, 1867 04/10/19 04/11/17 Legal and Constitutional Affairs An Act to amend the Constitution Act, 1867 04/10/19 04/11/17 Legal and Constitutional Affairs An Act to protect heritage lighthouses 04/10/20 04/11/02 Social Affairs, Science and 05/03/21 0 Technology An Act to prevent unsolicited messages on 04/10/20 Transport and Communications Communications	& &	An Act to amend the Judges Act (Sen. Cools)	04/10/07	Dropped from Order Paper pursuant to Rule 27(3) 05/06/16						
An Act to amend the Criminal Code (lottery 04/10/19 04/10/26 Legal and Constitutional 05/04/12 observations schemes) (Sen. Lapointe) An Act concerning personal watercraft in 04/10/19 05/06/01 Energy, the Environment 05/06/29 0 An Act concerning personal watercraft in 04/10/19 05/06/01 Energy, the Environment 05/06/29 0 An Act concerning personal watercraft in 04/10/19 04/11/17 Legal and Constitutional Affairs An Act to amend the Constitution Act, 1867 04/10/19 04/11/17 Legal and Constitutional Affairs An Act to protect heritage lighthouses 04/10/20 04/11/02 Social Affairs, Science and 05/03/21 0 Technology An Act to prevent unsolicited messages on 04/10/20 05/02/10 Transport and Communications	8-9	amend the Copyright	04/10/07	04/10/20	Social Affairs, Science and Technology					
An Act concerning personal watercraft in 04/10/19 05/06/01 Energy, the Environment of S/06/29 0 and Natural Resources An Act to amend the Constitution Act, 1867 04/10/19 04/11/17 Legal and Constitutional Affairs (Speakership of the Senate) (Sen. Oliver) An Act to protect heritage lighthouses 04/10/20 04/11/02 Social Affairs, Science and 05/03/21 0 An Act to protect heritage lighthouses 04/10/20 04/11/02 Social Affairs, Science and 05/03/21 0 Technology O5/02/10 05/02/10 05/02/10 Transport and Communications	S-11		04/10/19	04/10/26	Legal and Constitutional Affairs	05/04/12	2 observations	05/05/17		
An Act to amend the Constitution Act, 1867 04/10/19 04/11/17 Legal and Constitutional Affairs and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver) An Act to protect heritage lighthouses (Sen. Forrestall) An Act to prevent unsolicited messages on 04/10/20 04/11/20 Social Affairs, Science and 05/03/21 0 Technology An Act to prevent unsolicited messages on 04/10/20 05/02/10 Transport and Communications	S-12	An Act concerning personal watercraft navigable waters (Sen. Spivak)	04/10/19	05/06/01	Energy, the Environment and Natural Resources	05/06/29	0			
An Act to protect heritage lighthouses 04/10/20 04/11/02 Social Affairs, Science and 05/03/21 0 An Act to prevent unsolicited messages on 04/10/20 Subject matter An Act to prevent unsolicited messages on 04/10/20 Transport and Communications	S-13		04/10/19	04/11/17	Legal and Constitutional Affairs					
An Act to prevent unsolicited messages on 04/10/20 the Internet (Sen. Oliver)	S-14		04/10/20	04/11/02	Social Affairs, Science and Technology	05/03/21	0	05/03/23		
	S-15				Subject matter 05/02/10 Transport and Communications					

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S-16	An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.)	04/10/27		Subject matter 05/02/22 Aboriginal Peoples					
S-19	An Act to amend the Criminal Code (criminal interest rate) (Sen. Plamondon)	04/11/04	04/12/07	Banking, Trade and Commerce	05/06/23	-	05/06/28		
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/11/30		Subject matter 05/02/02 Legal and Constitutional Affairs					
S-21	An Act to amend the criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	04/12/02	05/03/10	Legal and Constitutional Affairs			1		
S-22	An Act to amend the Canada Elections Act (mandatory voting) (Sen. Harb)	04/12/09							1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
S-23	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	05/02/01		Subject matter 05/07/18 Legal and Constitutional Affairs					
S-24	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	05/02/03	05/03/10	Legal and Constitutional Affairs					1
S-26	An Act to provide for a national cancer strategy (Sen. Forrestall)	05/02/16	05/06/01	Social Affairs, Science and Technology					
S-28	An Act to amend the Bankruptcy and Insolvency Act (student loan) (Sen. Moore)	05/03/23	05/06/01	Banking, Trade and Commerce					
S-29	An Act respecting a National Blood Donor Week (Sen. Mercer)	05/05/05	05/06/01	Social Affairs, Science and Technology					
S-30	An Act to amend the Bankruptcy and Insolvency Act (RRSP and RESP) (Sen. Biron)	05/05/10							
S-32	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	05/05/12							
S-34	An Act to amend the Department of Justice Act and the Supreme Court Act to remove certain doubts with respect to the constitutional role of the Attorney General of Canada and to clarify the constitutional relationship between the Attorney General of Canada and Parliament (Sen. Cools)	05/05/16							
S-35	An Act to amend the State Immunity Act and the Criminal Code (terrorist activity) (Sen. Tkachuk)	05/05/18							
S-41	An Act to amend the Department of Foreign Affairs and International Trade Act (human rights reports) (Sen. Kinsella)	05/06/21							
S-42	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	05/07/20							

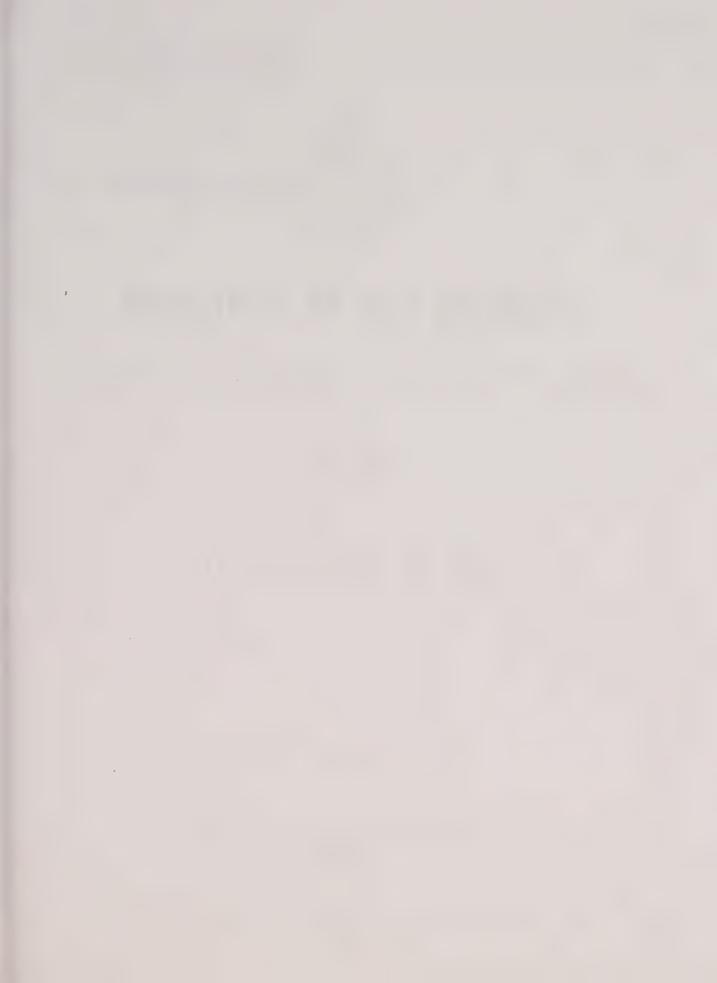
No.	Title	1st	2 nd	Committee	Report	Report Amend	3	K.A.	Chap.
S-43	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	05/09/28							
S-44		05/09/28							
			Ь	PRIVATE BILLS					
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No.	201	•		T	20120120	0		05/05/10 05/05/19*	
S-25	An Act to amend the Act of incorporation of The General Synod of the Anglican Church of Canada (Sen Romokey, P.C.)	05/02/10	05/02/10 05/03/23	Banking, Trade and Commerce	co/co/co	observations			
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CANADA

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OFFICIAL REPORT (HANSARD)

Tuesday, October 18, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.

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(Daily index of proceedings appears at back of this issue).



THE SENATE

Tuesday, October 18, 2005

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

QUESTION OF PRIVILEGE

NOTICE

Hon. Marjory LeBreton: Honourable senators, pursuant to written notice given earlier this day, I rise to give oral notice that I shall raise a question of privilege this day, Tuesday, October 18, 2005, with respect to two meetings held in room 705 of the Victoria Building, one beginning on the morning of October 17 and the other beginning on the morning of October 18 of this year involving some members of the Standing Senate Committee on National Security and Defence and witnesses invited by the committee to testify.

As the meetings that are the source of my concern were held yesterday and today, this is clearly the first opportunity at which this question might be raised. My concern is that these meetings were not just in contravention of the *Rules of the Senate*, but that the nature of the contraventions was such that they infringe upon the ability of all senators to carry out their functions.

Should you find that there is a prima facie question of privilege, I am prepared to move the appropriate motion.

WOMEN'S HISTORY MONTH PERSONS CASE

Hon. Jack Austin (Leader of the Government): Honourable senators, on October 18, 2005, we mark several milestones of great importance to Canadians. Today is Persons Day, a significant day for all Canadians and particularly here in the Senate of Canada.

October is Women's History Month, and this year's theme — Women and War: Contributions and Consequences — was chosen in recognition of the irreplaceable role that women have filled in Canada during times of military conflict. As honourable senators know, this year has been designated the Year of the Veteran because it marks the sixtieth anniversary of the end of the Second World War, a war of monumental significance for Canada and in 20th century history.

The large numbers of men serving overseas in the war effort forced government and industry to turn to women to fill the labour shortage. Toward the end of the Second World War, women filled over 800,000 jobs in the Canadian economy, of which more than a quarter of a million were in the munitions industries. Women worked in every sector of employment — in the service industry, operating heavy machinery on family farms,

and overseas with the military or the Red Cross. Women assumed a more visible role in society that highlighted their abilities and potential to make a wider contribution to their country in peace time.

The Government of Canada hosted two events earlier this month at the Canadian War Museum to recognize the contribution of women during periods of war. On October 3, Finance Minister Ralph Goodale and Veterans Affairs Minister Albina Guarnieri presented a commemorative 1945 Victory Bond certificate to the museum to recognize the men and women who served in the Canadian military, as well as to recognize the importance of household finances to the nation's finances during wartime. The following day, Françoise Boivin, member of Parliament for Gatineau, on behalf of Liza Frulla, Minister of Canadian Heritage and Minister responsible for Status of Women, unveiled a plaque at the museum that honours the Women's Royal Canadian Naval Services.

Remarkable acts of heroism and sacrifice can pass unnoticed during times of tribulation, and it has often been small, humanitarian acts by women that have been lacking in the official record of Canada's war history. Women sent packages overseas containing everyday necessities for soldiers and prisoners of war to alleviate difficult conditions.

Women left to cope with the loss of husbands, brothers and sons formed social networks that became the origins of many of today's social services. Their experiences galvanized some to work toward world peace, and some to work through religious and social organizations to build a more caring and tolerant society.

This Women's History Month, I encourage Canadians to reflect on the contributions to our nation by all women who lived during times of military conflict. Although these efforts were sometimes extraordinary, they were more often commonplace but nonetheless remarkable. We have been immeasurably fortunate to benefit from the courage, compassion and sacrifice of women on behalf of their fellow citizens.

Hon. Ethel Cochrane: Honourable senators, 76 years ago today, the Privy Council made its historic ruling in the Persons Case. That day was indeed a landmark victory for all Canadian women in the struggle for equal rights.

While we continue to pursue many facets of this struggle, today we recognize more than ever the many contributions and achievements of Canadian women, both past and present.

As we celebrate Women's History Month with the theme "Women and War: Contributions and Consequences," I am reminded of the words of the Famous Five pioneer, Louise McKinney, who said:

The purpose of a woman's life is just the same as the purpose of a man's life: that she may make the best possible contribution to her generation.

Honourable senators, many generations of women have served as powerful examples of living such a life. We need look no further than women's huge contributions in the time of war.

In 1941, for instance, the federal government enrolled more than 45,000 women in military services other than nursing. The Canadian Women's Army Corps, CWAC, was just one avenue that many followed. By the end of the Second World War, more than 21,000 women had worn the uniform of the CWAC.

Subsequent generations of women also became involved. During the Korean War in the early 1950s, more than 5,000 women were enrolled in Canada's war effort; and decades later, in the Gulf War in 1991, Canadian women engaged in combat for the first time.

Today, the number of women who are active in the Canadian Forces is simply unprecedented, a staggering number. More than 7,000 women are members of our armed forces. In our reserve forces, the numbers are even greater. Currently, more than 15,500 women serve as reservists, representing 18 per cent of Canada's total reserves.

(1410)

Canadian women have bequeathed a truly remarkable legacy to today's young women and to generations to come. Like Senator Austin, I encourage all honourable senators to participate in Women's History Month, whether through attendance at special events or by simply listening to stories and celebrating the people who inspired them.

It is of paramount importance that all Canadians be aware of the countless achievements of women and their contributions to this great nation. After all, as Nellie McClung once said: "People must know the past to understand the present and to face the future." I would certainly agree with that.

[Translation]

MENTAL ILLNESS AWARENESS WEEK

Hon. Marilyn Trenholme Counsell: Honourable senators, I rise today to acknowledge Mental Illness Awareness Week, which was celebrated from October 3 to 10. Canada is looking forward to the report of the Standing Senate Committee on Social Affairs, Science and Technology on mental health with great interest and great hope.

Each of us individually can make a difference. We can offer our encouragement and support to someone living with mental illness and to their family. We can mobilize all the passion, humanity and experience in our communities to prevent isolation and the stigma associated with mental illness.

[English]

Above all, honourable senators, I ask you to consider the emotional development of children in your families and in your communities because mental illness and early childhood development are inextricably linked. I refer honourable senators to the book entitled, *Emotional Intelligence*, by Daniel

Goleman. Good emotional development — high emotional IQ — from birth can prevent many mental illnesses, many addictions, and much loneliness and despair, and can modify the course of genetically acquired mental illnesses. Low emotional IQ is linked to school dropout, crime and suicide.

Strong coping skills, strong empathy, strong self-esteem and so much more begin in the home and are strengthened for many children by quality child care and by the magic to be found in our libraries and playgrounds long before children enter the doors of our schools. Children develop their emotional IQ as they discover themselves, the world and life itself, with all its possibilities. Sadly, too many children never attain their potential.

Honourable senators, we will always be fighting an uphill battle against mental illness unless we accept our parental and community responsibilities to offer each child the emotional nurturing required for strong neural development and, ultimately, for strong human beings who can deal positively with the life challenges faced by every man, woman and child throughout life.

Yet, we know that these challenges are faced disproportionately by children and youth whose earliest years have been marked by abuse, bullying, family turmoil and a lack of resources in the home and in the community — a failure to make early childhood development a priority and a failure to intervene at the earliest possible signs of mental, social and emotional problems.

Yesterday, Her Excellency, the Right Honourable Michaëlle Jean, said: "This is unbearable... The scourge of youth suicide cannot be ignored... As a mother, this is something I cannot accept."

Honourable senators, you and I have so many opportunities to touch the lives of others and to call forth the best in our communities. Let us use the privileged position we have been given to work hard and to reach out to our fellow Canadians, especially children and youth. Let "Each one reach one" be our commitment, our mantra.

[Translation]

Honourable senators, could we take up this challenge to a greater extent than before, so that Mental Illness Awareness Week remains alive? Let us not forget that prevention is our best hope.

[English]

PRINCE EDWARD ISLAND

TWENTY-FIFTH ANNIVERSARY OF TERRY FOX MARATHON OF HOPE

Hon. Elizabeth Hubley: Honourable senators, when Terry Fox reached Prince Edward Island in 1980 during his legendry Marathon of Hope run across Canada, he crossed the Northumberland Strait by ferry. On Sunday, September 18, to mark the twenty-fifth anniversary of this heroic young man's achievements, more than 14,000 people walked, jogged and rode by wheel chair over the 13-kilometre Confederation Bridge. The bridge was closed to vehicle traffic for only the second time since its completion seven years ago in order to accommodate this unique event, the purpose of which was to raise money for cancer research.

It was a remarkable morning. The tail-end of Hurricane Ophelia made for some interesting weather conditions, but that did nothing to dampen the enthusiasm of Islanders and other Atlantic Canadians who made the crossing. Good food and entertainment helped keep spirits high. I walked the Confederation Bridge with my granddaughter, Carolyn Crossman, who crossed in a stroller during the inaugural 1997 walk held in conjunction with the official opening of the bridge.

Honourable senators, cancer affects everyone, even children. It was heartening to see schools from across the Island take part in this worthwhile event. The twenty-fifth anniversary of the Terry Fox Marathon of Hope was commemorated in every province in Canada, not just in my province. I am proud to say that Prince Edward Island was the only province with 100 per cent participation from its schools.

The Confederation Bridge walk was an exciting and meaningful adventure for my family, but I would like to acknowledge the work of the many volunteers who made it such a success. The view from the navigation span of the Confederation Bridge is dramatic and inspiring — much like the spirit of a forever-young Terry Fox.

ROUTINE PROCEEDINGS

GOVERNOR GENERAL

COMMISSIONS APPOINTING DEPUTIES TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the pleasure to table copies of the nine commissions, dated September 27, 2005, appointing the judges of the Supreme Court of Canada as deputies of the Governor General, to do in Her Excellency's name all acts on her part necessary to be done during Her Excellency's pleasure.

STUDY ON LEGAL ISSUES AFFECTING ON-RESERVE MATRIMONIAL REAL PRÓPERTY ON BREAKDOWN OF MARRIAGE OR COMMON LAW RELATIONSHIP

GOVERNMENT RESPONSE TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the government response to the 17th report of the Standing Senate Committee on Human Rights on the issue of on-reserve matrimonial real property.

NATIONAL CHILD BENEFIT

PROGRESS REPORT 2003 TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table two copies, in both official languages, of the National Child Benefit Progress Report, 2003.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SIXTH REPORT OF COMMITTEE TABLED

Hon. David P. Smith: Honourable senators, I have the honour to table the sixth report of the Standing Committee on Rules, Procedures and the Rights of Parliament, which revises the October 2004 edition of the Rules of the Senate.

PUBLIC SERVANTS DISCLOSURE PROTECTION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-11, to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

REMOTE SENSING SPACE SYSTEMS BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-25, governing the operation of remote sensing space systems.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading two days hence.

• (1420)

[English]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-49, to amend the Criminal Code (trafficking in persons).

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for consideration two days hence.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

MEETINGS OF OECD ECONOMIC AFFAIRS AND DEVELOPMENT COMMITTEE AND OF THIRD PART OF 2005 ORDINARY SESSION OF COUNCIL OF EUROPE, JUNE 17-24, 2005—REPORTS TABLED

Hon. Lorna Milne: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association respecting its participation to the meeting of the Committee for Economic Affairs and Development at the Organisation for Economic Co-operation and Development, OECD, held in Paris, France, June 17, 2005, and its participation to the third part of the 2005 Ordinary Session of the Parliamentary Assembly of the Council of Europe held in Strasbourg, France, June 20 to 24, 2005.

[Translation]

ROLE OF PUBLIC BROADCASTING

NOTICE OF INOUIRY

Hon. Marie-P. Poulin: Honourable senators, I give notice that, on Tuesday, October 25, 2005:

I will call the attention of the Senate to the issue of public broadcasting in Canada, with a view to initiating discussion on its role as a public trust.

[English]

TREATMENT AND THERAPY FOR AUTISM

PRESENTATION OF PETITION

Hon. Jim Munson: Honourable senators, I have the honour to present a petition on behalf of Canadians calling on Parliament to amend the Canada Health Act and corresponding regulations to include Intensive Behavioural Intervention/Applied Behavioural Analysis, IBI/ABA, therapy for people with autism as a medically necessary treatment and to require that all provinces provide or fund this essential treatment for autism. Petitioners are also calling for the creation of chairs at universities in each of the provinces to do studies and research on the matter.

As was Senator LeBreton's petition, this petition was given to me by a remarkable 12-year-old named Joshua Bortolotti. Twenty-one months ago, Joshua's sister Sophia was diagnosed with Autism Spectrum Disorder. Joshua has talked to many of us on the Hill. One cannot help but be moved by seeing this young man working on behalf of his sister.

Since that time, Joshua's family has learned about the limited availability of services, how long the waiting lists are for this treatment, and the discriminatory cut-off age of approximately six for necessary publicly funded treatment.

Honourable senators, it is in Joshua's honour that I present this petition today.

QUESTION PERIOD

FINANCE

ECONOMIC AND PRODUCTIVITY PERFORMANCE

Hon. W. David Angus: Honourable senators, a Conference Board of Canada report published today has found that of the top 12 OECD countries for which it annually measures economic and other important indicators of performance, Canada has ranked dead last in an overall economic indicator that combines GDP data per capita, inflation, employment growth, unemployment rate and other key measures.

Last year, Canada ranked sixth, and the year before that we were third. The report goes on to say that Canada is simply not living up to its brand as a wealthy, environmentally responsible, socially conscious, healthy society.

Would the Leader of the Government in the Senate please advise us what went wrong? Why has Canada fallen so far behind under this government's watch?

Hon. Jack Austin (Leader of the Government): Honourable senators, it is nice to have a question from Senator Angus. To continue with the reference to the report that he identified, the report says, "Canada remains one of the best countries in the world in which to live," and "our economic, social and environmental performance stacks up well against the world's best."

The numbers that the honourable senator mentioned are numbers in the Conference Board of Canada study; namely, that Canada, in their ranking, is twelfth, down from sixth last year. This change in ranking is attributed to weaker productivity and investment spending.

There is no question that improving our productivity is absolutely essential to our economic future. The government has been addressing this issue. I am sure that senators are aware of the concerns expressed by the Minister of Finance, the Honourable Ralph Goodale, with respect to productivity. Productivity is achieved by an overall effort of the community. It is not the responsibility of government alone. I am sure Senator Angus recognizes that it is the responsibility of private investors, the business community and individual Canadians.

The government has made key investments in education and training because critical to productivity is the need for a world-class workforce. Honourable senators will be familiar with the Canadian Foundation for Innovation, which has now invested more than \$9 billion in research and development to create, at the highest levels in our society, the most innovative economy that can be created. We have pursued significant issues in trade and are achieving the opening of markets in which we have not hitherto traditionally been important traders.

Most important, honourable senators, is that this government has followed the soundest macroeconomic policies of any country in the developed world. Some Hon. Senators: Hear, hear!

Senator Austin: Surely I need not recite here our performance, which includes eight surpluses in our government budgeting process, which have created the opportunity to supply to the provinces \$41 billion for health care.

Some Hon. Senators: Oh, oh!

Senator Austin: Is that not an accomplishment? Of course it is.

Some Hon. Senators: Hear, hear!

Senator Austin: To assist in productivity, we have one of the lowest rates of inflation of any of the developed economies. That rate continues, and I hope it will continue well into the next mandate of the Liberal government.

Some Hon. Senators: Hear, hear!

• (1430)

Senator Tkachuk: Can we have a time out?

Senator Austin: No, the question is too important to give a summary answer. It is a critical question as Senator Angus often, but not universally, asks.

Honourable senators, we should bear in mind that while we have to address the questions of productivity, which the Minister of Finance has raised and which are raised in other places, including the Conference Board of Canada, we are, to return to the Conference Board report, "one of the best countries in the world."

Senator Angus: Honourable senators, I am sure we are all grateful to the Leader of the Government in the Senate for that lecture on the meaning of productivity.

Honourable senators, this government has been talking about productivity and innovation since the very day it was elected, with nothing to show for it beyond press releases, media opportunities and study piled upon study.

Eleven years ago in October 1994, in a document entitled, pretentiously I might suggest, "A New Framework for Economic Policy," the Right Honourable Prime Minister Paul Martin stated that the key to stronger growth is increased productivity through more innovative and efficient combinations of people, ideas, capital and resources. The Prime Minister has spent more than nine of these intervening 11 years since as Minister of Finance and Prime Minister.

Why has the Prime Minister failed so miserably to implement a productivity agenda that will deliver real results and not have us lagging behind our partners in the industrialized world?

Senator Austin: With respect to the issue of productivity, there are systemic issues with which we have to deal. Honourable senators are aware of federal-provincial relations.

Honourable senators have seen our measures to deal with the cities and an attack on the infrastructure problems that have emerged there.

Honourable senators have seen us deal with the issue of productivity when it comes to daycare for families in this country.

There are any number of measures being taken. However, I assure Senator Angus that he will be delighted to see the forthcoming budget of the Minister of Finance in February 2006.

Senator Angus: The honourable senator is a harbinger of good news. I am sure all honourable senators have seen the report of the Banking Committee which was filed in this chamber in June of this year. The report is a special study on productivity and is entitled Falling Behind: Answering the Wake-up Call.

The Banking Committee heard experts from around the world. Committee members rendered the verdict collectively, as reported in this report, that we are indeed lagging behind. It outlined a recipe of measures to fix the problem, none of which were mentioned either in detail or en passant by the answer just given by the Leader of the Government in the Senate.

Has the government taken notice of this report? Is it implementing the suggestions, so clearly detailed in this report, to improve our performance?

Senator Austin: Honourable senators, the Standing Senate Committee on Banking, Trade and Commerce did exceptional public policy work in dealing with the issue of productivity in this country. Exceptional work is the committee's standard.

The issue of productivity is one that concerns all Canadians. Government has to be a spark plug in dealing with the issue of productivity. It is that spark plug and will continue to be that spark plug.

Honourable senators, I did deal, en passant, with the question. I referred to the forthcoming budget in February 2006. Being an objective and fair-minded observer of these issues, I am sure Senator Angus will be pleased to see the additional measures that the government will be taking at that time.

Senator Tkachuk: Perhaps the honourable leader could tell us what is coming.

Senator Forrestall: How long after that will the election come?

Senator Angus: Sneak preview.

NATIONAL DEFENCE

REPLACEMENT OF AIRCRAFT—OMNIBUS PURCHASE

Hon. J. Michael Forrestall: Honourable senators, I welcome back the Leader of the Government in the Senate. It is terribly good to see that the honourable senator is back to giving his charming speeches.

Can the leader tell us the timetable for the proposed omnibus purchase of fixed-wing search and rescue aircraft, tactical transport aircraft, a replacement for the Hercules and the new army medium-lift helicopters, a package of some \$7 billion or \$8 billion?

Hon. Jack Austin (Leader of the Government): Honourable senators, at this moment, I cannot provide a timetable.

First, I will have to get used to Senator Forrestall rising in his new seat. I was looking to his old seat when I heard his voice. I congratulate him on now being in the front row. Now that I know where he is, I will try to address him directly.

Senator Forrestall: Honourable senators, after 40 years I am entitled to some respect.

There have been news reports that the government is intending a process of sole sourcing of the contracts that I have just been talking about. The Boeing Chinook leaps to mind quite readily. It is a piece of equipment which, after refurbishing it, we got rid of in 1994 by selling it to the Netherlands. Can the Leader of the Government give us some indication that the government is prepared to commit to a fair and open competition to replace these assets in the reported omnibus purchase?

Senator Austin: Honourable senators, I am most interested in Senator Forrestall's representation because in past questions he has urged a more rapid procurement process, given the needs of the military to be in more updated equipment at the earliest time. I now hear him saying that what is most important in public policy is that there be open and, obviously, fair and transparent procurement processes. As Senator Forrestall knows, that does delay the availability of equipment. It serves other public policy purposes, but it sometimes delays the ability to put updated military equipment into the hands of the military.

I will take the honourable senator's representations into account.

Senator Forrestall: Honourable senators, the minister will appreciate that 4,073 days ago I asked if the government would replace the Sea King. I am still waiting for an answer.

Could the Leader of the Government give us an undertaking to bring to this chamber, in some fashion, the timetable for these critical and crucial purchases so that Canadians, in particular members of the Canadian Armed Forces who have to use this equipment, will have some idea of what is happening?

Senator Austin: Honourable senators, among us all, Senator Forrestall is one who most understands the military procurement process. He understands as well that the military itself is not of one mind with respect to the criteria required for any particular application.

Having the military settle on the agreed criteria, we then have experienced, over time, new requests and changes in procurement as new information becomes available to those who are the clients of the process, in particular the military.

There are difficulties in producing a timetable, as I have just explained. However, I will make inquiries and endeavour to provide a delayed answer to Senator Forrestall when it is provided to me.

• (1440)

CANADA-UNITED STATES RELATIONS

WESTERN HEMISPHERE TRAVEL INITIATIVE

Hon. Hugh Segal: Honourable senators, my question for the Leader of the Government in the Senate concerns the consequences to Canada, and to thousands of border communities along the U.S. border, of an American policy known as the Western Hemisphere Travel Initiative. As honourable senators will know, by December 31 of next year, all people entering the United States will have to carry a passport, if they travel by aircraft. A year thereafter, all people entering the United States by land will have to carry a passport. That will result in some 7.7 million fewer visitors to our country, according to the Conference Board of Canada.

In view of the imminent visit of the American Secretary of State, and despite the government's dallying with all kinds of interesting threats with respect to energy, and cozying up to China as opposed to dealing with our primary trading relationship, perhaps I could ask the Leader of the Government in the Senate to indicate whether representations have been made to work directly with the Department of Homeland Security on this issue and, if not, why not?

Hon. Jack Austin (Leader of the Government): Honourable senators, I appreciate the substantive part of Senator Segal's question and I will endeavour to address it.

The government has been making representations to the United States' administration with respect to the border issues that have been raised by Senator Segal. There are ongoing discussions with respect to the American policy that he has outlined. Senator Segal and other colleagues will have noted some American political leaders, even Senator Hillary Clinton, asking for a review by the administration of these policies.

The question of border crossings affects both countries. Senator Segal and others know that there are a number of border communities in the United States that would be significantly impacted if Canadians travelled in substantially fewer numbers to the United States. It is an ongoing and significant topic, and it is being pursued in bilateral discussions between Canada and the United States.

With respect to the gratuitous political comment, I see that Senator Segal wants to join one of the senior Quebec Conservative politicians in departing from the policies of the Leader of the Opposition in the other place. Mr. Cannon had very interesting new ideas for Mr. Harper on Kyoto and the environment and, as Senator Segal — who is a close observer of public policy — may have noted, Mr. Harper was very keen about trading with China, and enhancing and diverting trade to China. Thus already, at this early time, Senator Segal seems to be prepared to ask Mr. Harper to adjust his thinking.

Senator Segal: Honourable senators, I appreciate the Leader of the Government's attentiveness to what various members of our party are saying. I think that is prudent on his part because our party is actually preparing to form a government that will be responsive to Canada-U.S. relations, and that will take the U.S. relationship seriously. As the Leader of the Government in the Senate knows, the Leader of the Opposition in the other place called for the appointment of a special envoy on softwood lumber.

My question to the Leader of the Government is as follows: He will know that the President of the United States and as well, as he indicated, Senator Clinton, have indicated that they think the notion of necessarily requiring a passport all the time does not make economic sense. Sadly, the Department of Homeland Security and the Department of the Secretary of State are still pursuing that policy. That gives the government a rare opportunity to make a representation while Secretary Rice is here in Canada. I would like the Leader of the Government to give us an assurance in this chamber that that representation will be made in the strongest possible way by the Prime Minister.

Senator Austin: Honourable senators, with respect to the last point made by Senator Segal, I believe I have already answered it, although it is not harmful for him to repeat his question.

We are making strenuous representations because of the economic and social impacts that those measures adopted by Congress with respect to border security would have on both countries. There is an examination going on at a very high level between the two countries to determine how both policy objectives can be achieved: that is, easy access and egress across the border for citizens of both countries and the security issues that are important to both countries.

With respect to, again, the political rhetoric, I am delighted that the honourable senator's party is endeavouring to prepare itself to be a government one day in the future, and that future will always be there, Senator Segal, ahead of you. Of course, there is no one here who would deny the importance, in the Westminster system, of governments alternating, but of course the alternation requires a party to prove to the Canadian people that it is ready. That is the litmus test. Welcome to the game.

CANADIAN BROADCASTING CORPORATION

UNION LOCKOUT— INVOLVEMENT OF BOARD OF DIRECTORS

Hon. Lowell Murray: Honourable senators, now that the labour dispute at the CBC and Radio-Canada has been settled, there are some matters pertaining to the governance of that corporation in such circumstances on which Parliament should have some information. My particular interest is in the role of the board of directors and of the government in representing the shareholder.

First: Did the board of directors sign off on the management strategy to lock out the union members? If they did not, or if they were not consulted, why not?

Second: Did the board of directors, or a committee thereof, monitor the dispute as it evolved and offer advice or instructions to the management?

Third: Did the government, as representing the shareholder, give any advice or instructions to the board of directors, as they would be entitled to do in a matter such as this?

Finally, when the minister is bringing in the answers to those questions, would he also table a list — and I know it is public knowledge already — of the names of the directors of CBC and Radio-Canada, the dates of their appointment and the mandates and terms of office under which they are serving?

Hon. Jack Austin (Leader of the Government): Honourable senators, with respect to the last point, I have no problem in tabling the list in question, although, as Senator Murray says, it is easily accessible on the Internet and in so many other places.

With respect to the balance of his question, with regard to the role of the board of the Canadian Broadcasting Corporation, I will have to take notice of that question. Senator Murray is asking for specific information and it may or may not be available to the government.

The federal Crown is a shareholder, but by its legislation the CBC operates independently of any direction by the Government of Canada in the ordinary course of its affairs. As I say, I will take notice of the question and provide whatever answer I can provide.

Senator Murray: Honourable senators, I do not want to prolong this discussion, but I would draw the attention of the minister to the document put out by the President of the Treasury Board some weeks ago on the governance of Crown corporations, in which he establishes very clearly the responsibility of the board of directors at the heart of those Crown corporations and of their accountability through a minister to Parliament. Therefore, I offer the view that nothing I have asked for ought to be unavailable to Parliament.

• (1450)

ROYAL CANADIAN MINT

SEVERANCE PACKAGE OF EX-PRESIDENT

Hon. David Tkachuk: Honourable senators, statements have been made by Minister John McCallum and other government members that the government is obligated to provide a severance package to David Dingwall. Could the Leader of the Government in the Senate advise whether there were any conversations between Mr. Dingwall and the government, either directly or through a representative, prior to his resignation in which the terms of his resignation were discussed?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no information on this subject other than the statements made by Minister McCallum in the other place, which are available to all senators.

Senator Tkachuk: If there were no such conversations — or perhaps there were; I do not know and obviously the minister here does not know either — could the Leader of the Government advise the Senate as to precisely how it was determined that Mr. Dingwall may be owed severance?

Senator Austin: Minister McCallum has answered that question several times in the other place. I will speak with him personally to see if I can add anything to the answer.

Senator Tkachuk: Honourable senators, Minister McCallum is a member of the cabinet. He may have given that answer to the House of Commons, but he is not a member of the Senate, the last I heard. Perhaps it is the obligation of the Leader of the Government in the Senate to advise senators here. He is a member of the cabinet. He must have approved. How was it determined that Mr. Dingwall may be owed severance?

Senator Austin: I understand the honourable senator's interest in the answer to the question. I will make inquiries to see if I can add anything to the answers that Minister McCallum has given in the other place.

Senator Tkachuk: Honourable senators, does the government have, in fact, a written legal opinion that the severance is payable? If so, could the government leader report back to the Senate, first, with the name of the person or law firm that provided the opinion, and second, could he table the precise facts on which the opinion was based?

Senator Austin: Honourable senators, Minister McCallum has said in the other place that he has no written opinion. He has received verbal advice from law officers of the Crown. It is not the practice to identify law officers of the Crown specifically.

Senator Tkachuk: Honourable senators, is it the position of the government that any head of a Crown corporation who resigns voluntarily before his term is over is entitled to severance? For example, John McCallum appointed his former Royal Bank colleague Gordon Feeney as Chairman of Canada Post. Is it not a matter of government policy that severance is paid if Mr. Feeney or any of the other defeated Liberal candidates who are working for the Apprenticeship Advisory Committee, Crown corporations or as ambassadors voluntarily resign before their term is up?

Senator Austin: Honourable senators, the minister responsible, the Honourable John McCallum, has advised that he will follow the employment law as it is advised to him by the officers of the Crown. The circumstances of any particular situation may vary and there is no specific and sole rule of thumb with respect to these circumstances. They each have to be taken on precise facts.

Senator Tkachuk: I will take as much licence with time as the Leader of the Government has and quote Howard Levitt, the editor of Dismissal and Employment Law Digest, who wrote in the National Post on October 6:

If the monies are truly being paid based upon legal advice, as alleged, there are only three possibilities, none of which are palatable to the government:

• Dingwall did not actually resign but was fired. It is not uncommon for dismissed employees to be offered the option of "resigning" on the basis that it looks better on their resumes. But the government is denying that this is what occurred;

 Dingwall had signed an initial employment contract permitting him to resign, at any time, and collect severance as if he had been fired. If the government is encouraging employees to resign in that fashion, that would be a scandalous abuse of public funds...

That is our point. A cheque is being written to Mr. Dingwall. We have the minister of the government in this place saying he does not have to tell us or he does not know. Public money is being given to a former Liberal cabinet minister for seemingly no reason whatsoever that we are able to ascertain. This is a serious matter of public policy, and the minister should address it.

Senator Austin: Honourable senators, the terms of employment of any person by the Government of Canada are affected by the prevailing laws of employment in Canada, and Minister McCallum has advised the other place that he will apply those laws. I cannot add anything further to the words of the minister responsible for this particular file.

Senator Comeau: No accountability as usual.

[Translation]

ANSWERS TO ORDER PAPER QUESTIONS TABLED

SOCIAL DEVELOPMENT— NATIONAL SENIORS SECRETARIAT

Hon. Bill Rompkey (Deputy Leader of the Government) tabled the answer to Question No. 13 on the Order Paper, raised on June 1, 2005—by Senator Downe.

HERITAGE—NATIONAL CAPITAL COMMISSION

Hon. Bill Rompkey (Deputy Leader of the Government) tabled the answer to Question No. 21 on the Order Paper, raised on July 6, 2005—by Senator Spivak.

[English]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, the next four are delayed answers to oral questions raised in the Senate, and they are as follows: The first delayed answer is in response to a question raised on June 28, 2005, by Senator Tkachuk, concerning lobbyist contingency fees. The next delayed answer is in response to a question raised on July 19, 2005, by Senator Cochrane, concerning comments by the Minister of Social Development regarding early learning and child care. The next is in response to a question raised on July 18, 2005, by Senator Forrestall regarding the denial of benefits to a former JTF2 soldier. The last is a response to a question on September 28, 2005, by Senator Meighen regarding the potential liquefied natural gas terms analysis on Passamaquoddy Bay.

TREASURY BOARD

LOBBYIST CONTINGENCY FEES

(Response to question raised by Hon. David Tkachuk on June 28, 2005)

The Lobbyists Registration Act requires lobbyists to disclose whether they charge contingency fees. The Act only requires lobbyists to disclose whether or not they charge contingency fees for a particular undertaking. When a lobbyist registers, this information is added to the Public Registry of Lobbyists.

The Act does not regulate the charging of contingency fees by lobbyists.

Policies on contingency fees relating to federal contracts, grants and contributions are set out in Treasury Board's policies.

The Registrar of Lobbyists administers the Lobbyists Registration Act in an independent manner.

SOCIAL DEVELOPMENT

EARLY LEARNING AND CHILD CARE PROGRAM— AVAILABILITY

(Response to question raised by Hon. Ethel Cochrane on July 19, 2005)

Under the new national early learning and child care initiative, participating governments have agreed to work towards an early learning and child care system that is universally inclusive and affordable to Canadian families.

However, building an inclusive and affordable system will take time, and services may not be available to every family that want them within the next five years.

The intent is that over time, parents who want to access these services could do so, at an affordable cost. Services would be open and responsive, without discrimination to young children, including those with particular needs.

Provinces and territories will have the flexibility to determine how to enhance their early learning and child care systems, based on the particular needs of their communities. Federal funds will support a mix of services that could include child care in regulated family day homes, nursery schools, child care centres, and preschools. Funds will also support measures to improve quality and make early learning and child care more affordable.

Governments recognize there are some groups with particular challenges in accessing regulated early learning and child care, including rural families and families with non-traditional work hours. With the significant increase in funding available under this initiative (an average 45 per cent increase across the country), provinces and territories will have a greater capacity to develop innovative programs for families with more challenging needs.

Experts working in the area of rural child care have confirmed that it is possible to deliver innovative, regulated early learning and child care programs in rural communities. They note that such programs will require more flexibility, and may be more costly, but that they can be delivered without sacrificing the provision of quality care.

This new initiative is a major step forward and will go a long way in helping to build an early learning and child care system that is accessible and affordable to Canadian parents.

The new initiative will not provide a regulated early learning and child care space for every child under age six in Canada. Rather, it will begin removing the systematic barriers that have prevented some families from participating in these programs and services, including families living in rural areas.

VETERANS AFFAIRS

DENIAL OF BENEFITS TO FORMER JTF2 SOLDIER

(Response to question raised by Hon. J. Michael Forrestall on July 18, 2005)

JTF2

VAC awards disability pensions to all eligible veterans and Canadian Forces members for service-related disability or death.

As part of the application process, VAC requests all necessary medical and service information from DND to support a member's disability pension claim.

VAC and DND have been working closely through the DND-VAC Centre to obtain necessary information for the VAC disability pension program while respecting the need to protect information related to national security.

Any member of the Canadian Forces who suffers a service related disability is eligible for a disability pension. The Minister of Veterans Affairs is prepared to have her officials immediately review any case brought to her attention where there is any doubt about the member's ability to obtain the necessary information.

Afghanistan

Any members injured while deployed to a Special Duty Area, such as Afghanistan, including members of Joint Task Force 2, are eligible for and are receiving VAC disability pension and related health care benefits. DND is also providing pensions and service coordination to the surviving spouses and children of Veterans who are killed in the line of duty. As of September 14, 2005, 21 veterans and their families are receiving VAC benefits as a result of service in this Special Duty Area.

CANADA-UNITED STATES RELATIONS

MAINE—PROPOSED LIQUEFIED NATURAL GAS TERMINALS

(Response to question raised by Hon. Michael A. Meighen on September 28, 2005)

The Government of Canada is aware of the proposals to construct Liquefied Natural Gas (LNG) receiving terminals on Passamaquoddy Bay and the St. Croix River estuary and the concerns that the local inhabitants have expressed regarding these proposals.

The decision to restrict the use of Head Harbour Passage in 1976 by oil tankers carrying more than 5,000 cubic meters of oil was made only after studies conducted by the federal government indicated that there were considerable environmental risks to Canada. The government is initiating a study to examine the full range of impacts that the potential construction of LNG terminals in Passamaquoddy Bay would have on the Canadian side of the border. This study will include environmental, transportation and socio-economic considerations. When the results of this analysis are completed the Government will make a decision in the light of the findings and other relevant factors.

THE SENATE

INTRODUCTION OF PAGES

The Hon. the Speaker: Honourable senators, before calling Orders of the Day, I would like to introduce our new pages. First, we have Joseph-Daniel Law. Joseph is from Tecumseh, Ontario. He is currently in his third year at the School of Political Studies at the University of Ottawa.

Next is Breagh Dabbs. Breagh was born and raised in Whitehorse, Yukon. She is currently in her second year at Carleton University, majoring in political science and international relations.

Finally, we have Rachel Dares. Rachel was born and raised in Toronto. She is currently in her third year of journalism studies at Carleton University.

Welcome, all of you.

Hon. Senators: Hear, hear!

[Translation]

HIGHWAY 30 COMPLETION BRIDGES BILL

MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-31, to authorize the construction and maintenance of a bridge over the St. Lawrence River and a bridge over the Beauharnois Canal for the purpose of completing Highway 30, and acquainting the Senate that they have passed this bill without amendment.

LIBRARY OF PARLIAMENT SCRUTINY OF REGULATIONS

MEMBERSHIP OF JOINT COMMITTEES— MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that the following message had been received from the House of Commons:

Ordered,—That the Standing Joint Committees be composed of the Members listed below:

LIBRARY OF PARLIAMENT

Members: André, Byrne, Eyking, Gallant, Goldring, Kadis, Malhi, Poirier-Rivard, Siksay, Stinson, Temelkovski, Vellacott—(12)

Associate Members: Abbott, Ablonczy, Allison, Ambrose, Anders, Anderson (Cypress Hills—Grasslands), Augustine, Batters, Benoit, Bezan, Breitkreuz, Brown, Brunelle, Carrie, Casey, Casson, Chatters, Chong, Commins, Day, Devolin, Doyle, Duncan, Epp, Finley, Fitzpatrick, Fletcher, Forseth, Goodyear, Gook, Grewal (Newton—North Delta), Grewal (Fleetwood—Port Kells), Guergis, Hanger, Harper, Harris, Harrison, Hearn, Hiebert, Hill, Hinton, Jaffer, Jean, Johnston, Kamp, Keddy, Kenney, Komarnicki, Kramp, Lauzon, Lukiwski, Lunn, Lunney, MacAulay, MacKay (Central Nova), MacKenzie, Mark, Menzies, Merrifield, Miller, Mills, Moore (Port Moody—Westwood—Port Coquitlam), Moore (Fundy—Royal), Nicholson, Obhrai, O'Connor, Oda, Pallister, Penson, Plamondon, Poilievre, Prentice, Preston, Rajotte, Reid, Reynolds, Richardson, Ritz, Scheer, Schellenberger, Schmidt, Skelton, Smith (Kildonan—St. Paul), Solberg, Sorenson, Strahl, Thompson (New Brunswick Southwest), Thompson (Wild Rose), Tilson, Toews, Trost, Tweed, Van Loan, Warawa, Watson, White, Williams, Yelich

SCRUTINY OF REGULATIONS

Members: Anders, Goodyear, Guay, Kamp, Lee, Lemay, Macklin, Myers, St. Amand, Tweed, Wappel, Wasylycia-Leis—(12)

Associate Members: Abbott, Ablonczy, Allison, Ambrose, Anderson (Cypress Hills—Grasslands), Batters, Benoit, Bezan, Breitkreuz, Brown, Carrie, Casey, Casson, Chatters, Chong, Cummins, Day, Devolin, Doyle, Duncan, Epp, Finley, Fitzpatrick, Fletcher, Forseth, Gallant, Goldring, Gouk, Grewal (Newton—North Delta), Grewal (Fleetwood—Port Kells), Guergis, Hanger, Harper, Harris, Harrison, Hearn, Hiebert, Hill, Hinton, Jaffer, Jean, Johnston, Keddy, Kenney, Komarnicki, Kramp, Laframboise, Lauzon, Lukiwski, Lunn, Lunney, MacKay (Central Nova), MacKenzie, Marceau, Mark, Ménard (Marc-Aurèle-Fortin), Menzies, Merrifield, Miller, Mills, Moore (Port Moody—Westwood—Port Coquitlam), Moore (Fundy—Royal), Nicholson, Obhrai, O'Connor,

Oda, Pallister, Poilievre, Prentice, Preston, Rajotte, Reid, Reynolds, Richardson, Ritz, Scheer, Schellenberger, Schmidt, Skelton, Smith (Kildonan—St. Paul), Solberg, Sorenson, Stinson, Strahl, Thompson (New Brunswick Southwest), Thompson (Wild Rose), Tilson, Toews, Trost, Van Loan, Vellacott, Warawa, Watson, White, Williams, Velich

That a message be sent to the Senate to acquaint their Honours of the names of the Members to serve on behalf of this House on the Standing Joint Committees.

ATTEST:

AUDREY O'BRIEN
The Clerk of the House of Commons

(1500)

ORDERS OF THE DAY

PERSONAL WATERCRAFT BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Andreychuk, for the third reading of Bill S-12, concerning personal watercraft in navigable waters.—(Honourable Senator Plamondon)

Hon. Madeleine Plamondon: Honourable senators, the aim of Bill S-12 is to make it possible to ban or restrict the use of personal watercraft on navigable waters. Therefore, pursuant to this bill and after public consultation, a local authority may adopt a resolution proposing to the minister that the use of personal watercraft on navigable waterways be forbidden or restricted.

The bill raises questions that, to my knowledge, have not been addressed. Is the federal government's jurisdiction over navigation truly obvious to everyone? Is navigation the only criteria needed to declare that the federal government has jurisdiction? If we navigate on non-navigable waterways or ones declared non-navigable by the courts, does the federal government still have jurisdiction? Does a waterway that is not navigable in its natural state, but which becomes navigable as a result of human intervention fall under federal jurisdiction, such as the Rideau Canal?

Another aspect that was not raised is the minister's regulatory power. The justification being given for the minister's involvement is the federal government's jurisdiction over navigation. A local authority consults its citizens and, for health, safety or environmental reasons, may adopt a resolution obliging the minister to adopt regulations forbidding or restricting the use of personal watercraft, unless this proposal would impede navigation.

I am no expert in this field, but it seems that some clarification is needed. In truth, I am puzzled by the bill's approach. First, can federal legislation grant jurisdiction to a local authority in order to adopt a resolution on health, safety and the environment, which traditionally fall under provincial jurisdiction or are at least shared with the provinces?

Also, can a resolution by a local authority force the federal minister to act in his exclusive jurisdiction over shipping? In other words, could the federal legislator confer jurisdiction on a local authority, which, in exercising this jurisdiction, would be forcing the federal government to exercise its jurisdiction over shipping?

Finally, could excluding the provincial authorities cause problems down the road?

In addition, I am wondering why the bill deals only with personal watercraft, when there are many other types of craft. I am also wondering about the consultation process involving local communities and residents referred to in the bill. We all know that, in resort areas, the population is higher during the summer months. This means that a majority made up of summer residents could impose its views on permanent residents. Is that really democratic? Is that the best way to make things happen? What will happen in the case of waterways or lakes bordering on more than one municipality? Have recent technological advances been taken into consideration? It may be that the reasons for many of the complaints about personal watercraft have been worked out to a large extent.

The regulatory context has changed as well. As our colleague, Senator Céline Hervieux-Payette, already mentioned on December 13, 2004, regulations on this already exist and Bill S-12 is a duplication. Regulations restricting the use of vessels have been made under the Canada Shipping Act and also apply to personal watercraft.

These regulations provide an age limit for using and operating vessels, designate how far a vessel can go from shore, set speed restrictions, and provide the possibility of restricting and banning the use of vessels and personal watercraft on Canadian waters.

Regarding the application of the regulations, a designated authority or the designated provincial authority can ask the federal minister to submit their sector to the restrictions. The number of orders issued under this regulatory control shows that the regulations restricting the use of watercraft are commonly used. Nonetheless, some improvements could be made on a practical level and on how quickly an order can be obtained.

It is also surprising to see that it was not until June 21, 2005, as far as I know, that a Transport Canada representative informed the committee that the issue was resolved and under control. According to this representative's account, there are some 2,000 restriction orders in Canada. These orders are issued at the request of local communities and in consultation with provincial authorities. These orders cover both vessels and personal watercraft. The regulatory control is working, but it can be improved.

In closing, this bill does not take into account the technological advances of recent years, it addresses personal watercraft only, and it duplicates existing regulatory controls and risks causing jurisdictional problems.

On motion of Senator Lapointe, debate adjourned.

[English]

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Jerahmiel S. Grafstein moved second reading of Bill S-43, to amend the Criminal Code (suicide bombings).—(Honourable Senator Grafstein)

He said: Honourable senators, Bill S-43 is a simple amendment to clarify a gap in the Criminal Code. It is proposed that section 83.01 of the Criminal Code be amended by adding the following after subsection (1.1):

(1.2) For greater certainty, a suicide bombing comes within paragraphs (a) and (b) of the definition "terrorist activity" in subsection (1).

This amendment would clearly establish "suicide bombing," per se, as a criminal offence. Over the last four years, the Organization for Security and Economic Co-operation in Europe, the world's largest international governmental and parliamentary organization dedicated to human rights, has consistently passed numerous unanimous resolutions condemning suicide bombing as "a crime against humanity."

From Vladivostok to Vancouver, 55 states, including Canada, are active members of the OSCE. The OSCE Parliamentary Assembly emerged in 1990 from the Helsinki Process that started in 1974. Honourable senators will recall that this was the beginning of the thaw in the Cold War. In order to inform senators about the appropriate international context, I have placed on the Order Paper of the Senate as the subject of an inquiry the OSCE Parliamentary Assembly's most recent resolution on suicide bombing. This resolution recites a more than four-year history of the OSCE resolution, and was adopted once again unanimously at the fourth annual OSCE Parliamentary Assembly in Washington on July 5, 2005.

• (1510)

Canada, as an active state of the OSCE, has repeatedly supported resolutions declaring suicide bombing as a "crime against humanity." The obvious purpose of this amendment is to conform Canada's international principles and practices to our domestic criminal law. This amendment, of course, fully accords with Jewish, Christian and Muslim teachings against the intentional taking of innocent lives by the tragic action of a person or persons committing suicide.

Last July 18, this summer, in response to London suicide bombings on July 7, more than 500 British Muslim religious leaders and scholars, after expressing condolences to the families of the victims, issued a fatwa that explicitly condemns "The use of violence and the destruction of innocent lives." "Suicide bombings," the fatwa states, "are vehemently prohibited." This fatwa was proclaimed by the British Muslim Forum, or the BMF, outside the British Houses of Parliament. There, the BMF Secretary-General, Gul Muhammad, quoted the Koran, saying: "Whoever kills a human being ... then it is as though he has killed all mankind; and whoever saves a human life, it is as though he had saved all mankind." That is a quote from the Koran, Surah al-Maidah (5), paragraph 5, verse 32.

Mr. Muhammad went on to say that, "Islam's position is clear and unequivocal: Murder of one soul is the murder of the whole of humanity; he who shows no respect for human life is an enemy of humanity." Approximately 50 Muslim leaders and scholars from around the U.K. stood together outside the Houses of Parliament in London, in support, as Mr. Muhammad publicly read out this fatwa.

In a separate public statement the British Muslim Forum, with nearly 300 mosques in the U.K. affiliated to it, noted that "This fatwa will be read out in mosques across Britain on July 22," and it was. This public statement also stated: "We pray for the defeat of extremism and terrorism in the world." Then, 40 Islamic leaders and scholars, at a meeting at London's Islamic Cultural Centre organized by the Muslim Council of Britain, a different organization, issued yet another declaration denouncing suicide bombings.

Even before the time of Moses, the taking of human life intentionally was prohibited. Witness the story of Cain and Abel. This was encapsulated in the sixth of the Ten Commandments. At Sinai, in the covenant that Moses unveiled, the idea of freedom was limited or circumscribed by the Ten Commandments. One tablet dealt with honour, respect; the other dealt with human beings. That Decalogue is found in the Old Testament, in Exodus 20:13 and Deuteronomy 5:17. The original Aramaic text of the Old Testament uses different words for intentional versus unintentional killing. The King James Version, in modern translations, now uses this translation: "You shall not murder." This translation more linguistically nuances and more closely represents the original meaning of the ancient Hebrew text. The original Hebrew word is "tirtzach" and that ordinarily refers to the intentional killing without cause. The root word of that word in the Ten Commandments is "ratzach" which ordinarily means the intentional killing without cause.

The Talmud explained, in reference to suicides, "For the world was created for only one individual to indicate that he who destroys one human life is considered as though he destroyed the whole world." Hebrew law considered accidental killing as not punishable. The Old Testament distinguished carefully between intentional murder without cause and accidental killing. Thus, in the Old Testament, "Cities of Refuge" were designated so that an unintentional killer could flee to escape revenge or retribution. Under the Old Testament, breaking other sacred laws such as honouring the Sabbath is permissible if breaking that law will help save a human life. To protect one's own life against intentional murder by another, the law of self defense is likewise permissible.

Christian theology, including Protestant, Catholic and Eastern Rites denominations, make it equally clear, prohibiting intentional murder of innocent people. In Matthew 19:18, Jesus is quoted to have said: "Thou shalt do no murder." Killing in self defence is also not deemed murder in the New Testament. As for suicides, Corinthians 6:19-20 prohibits the taking of one's own life. Those more familiar in this chamber with the Christian Coda might be more expansive on Christian theology on the question of the intentional taking of innocent lives with mens rea.

The rationale for our Criminal Code is to be precise, to ensure that crimes are proved beyond a reasonable doubt. Strict onus of proof remains with the state, so clarity is essential when the Criminal Code and the power of the state are arraigned against any person. Is there any reason whatsoever not to clarify the Criminal Code and make suicide bombings an express criminal offence? On a careful reading of our Criminal Code and the Anti-terrorism Act, there is no specific criminal offence of suicide bombing. A specific prohibition against suicide bombing would directly assist in prosecuting both those unsuccessful suicide bombers and those who individually conspire to assist in suicide bombings. Peace, order and good government lies at the base of our system of the rule of law. Suicide bombing is, therefore, in my view contrary to our national principles of constitutional governance.

Our criminal law as it stands does not directly prohibit those who intentionally choose to lose their lives as a means of taking other or as many innocent lives as possible. If suicide bombing is tantamount to homicide, then the Criminal Code should eliminate any doubts whatsoever about this conduct as a criminal offence. This surgical amendment will help bring attempted suicide bombers, and those collaborating with suicide bombers, to justice. While a modest amendment, it represents an important clarification of principles deeply embedded in our Criminal Code. The Criminal Code has evolved to give greater emphasis to victims, including their families. The amendment would help to remediate appropriate victims' concerns.

The nature of criminal law, honourable senators — and many of you who have practised criminal law would know this — is to mediate between morality and reason. The purpose of criminal law is to draw precise lines between what is acceptable and what is aberrant behaviour. In the process, criminal law forewarns, censures, ostracizes, isolates and seeks to undermine — and hopefully reduce, if not expunge — aberrant behaviour from society. The criminal law requires precision rather than vagueness as the state arraigns all of its mighty powers against the aberrant behaviour of an individual.

I believe, honourable senators, I have made the case to remediate the criminal law to prohibit, expressly, suicide bombings under the Criminal Code. I remain indebted to my parliamentary colleagues at the OSCE and the OSCE Parliamentary Assembly and the work of the organization Canadians Against Suicide Bombings, who urged the UN and Parliament to take action to remedy this unnecessary uncertainty in our criminal laws. I reviewed legal views, including those of Professor John Castel. This amendment is long overdue. I urge a speedy adoption of this amendment and your support for

approving second reading of this bill so that it can be quickly referred to the Standing Senate Committee on Legal and Constitutional Affairs for detailed consideration.

On motion of Senator Segal, debate adjourned.

[Translation]

PUBLIC SERVICE EMPLOYMENT ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Pierrette Ringuette moved second reading of Bill S-44, to amend the Public Service Employment Act.

She said: Honourable senators, I have the honour today to open the debate at second reading of Bill S-44, to amend the Public Service Employment Act, which I introduced on September 28.

This bill has a dual objective. First, it would do away with the practice of using geographic criteria to determine an area of selection for purposes of eligibility in appointment processes.

Second, it would ensure that both internal and external public service appointments would be free of bureaucratic favouritism.

• (1520)

At the present time, the Public Service Commission can set geographic criteria for eligibility to compete in both internal and external competitions for positions in the federal public service. This geographic restriction on obtaining federal government jobs is set by regulation at a radius of 50 kilometres around the official location of a competition, thereby keeping some competent Canadians from obtaining employment. The current selection process seriously limits the access of all Canadians to jobs in the Public Service. The situation applies to federal government jobs within a region, or even an entire province, because applicants are automatically rejected if they live outside that 50 kilometre radius.

[English]

For instance, in the greater Ottawa region, the capital region, which includes portions of Ontario and Quebec, the population is almost 1 million. Those 1 million residents have almost exclusive access to 60 per cent of all federal public service jobs, and that excludes Crown corporations and agencies, and the 5,000 employees of Parliament Hill. With a small percentage of these jobs located in Montreal and Toronto, we therefore have 0.3 per cent of the Canadian population having sole access to roughly 60 per cent of federal government jobs, and 60 per cent of the federal public service amounts to roughly 200,000 jobs. If you average the salary at a low of \$55,000 per year per job, this represents an annual payroll of \$11 billion, with about \$7.5 billion in Ontario alone. Along the same lines of argument, and in the spirit of equality and justice, 3 per cent of the population within the capital region do not have access to the other 40 per cent of federal government jobs.

Therefore, 99.7 per cent of Canadians have access to only 40 per cent of federal government jobs available, as they live within 50 kilometres of the jobs located across this land of ours. For instance, people living in Kingston cannot apply for a job in Ottawa. People living in Hamilton cannot apply for a job in Toronto. People living in Edmundston, New Brunswick, cannot apply for a job in Fredericton or Bathurst, New Brunswick.

The Hon. the Speaker: Just a moment, please, Senator Ringuette: The sound is not working for some reason.

Senator Ringuette: Is it okay now? Did somebody miss something?

Senator Cools: Start over!

Senator Rompkey: Say it again.

Senator Ringuette: The official website for job openings for the Government of Canada is jobs.gc.ca. For the purpose of this exercise, let us visit this site on a particular date — a week ago, October 11. There were four options listed. The first was jobs with no geographic restriction. There were 43 jobs listed in various locations across Canada. The second was jobs in your region. For example, the National Capital Region and eastern Ontario had 30 jobs listed, 18 exclusive for this region and 12 for various regions, which is of the 43 mentioned in number 1, therefore 60 per cent exclusive. In New Brunswick, for instance, 11 jobs were listed but two were for New Brunswick only. The other nine were from the various locations of the first one, the 43 jobs, therefore, 18 per cent exclusive. In Quebec, 24 jobs were listed, 14 restricted to 50 kilometres, therefore, 58 per cent exclusive. The third is all jobs listed by category. The fourth was jobs for executive levels, and one job was listed.

I will now highlight for you some facts as stated in the Public Service Commission 2004-2005 Annual Report, Chapter 1, that was tabled two weeks ago. Last year, nearly 35,000 people were hired into the public service. Hiring is still predominantly for a contingent workforce of specified-term period, casual or student employment. The number of new indeterminate, permanent hires fell to 9,426 in an organization of 153,043 indeterminate, permanent employees. Of these indeterminate hires, only 3,400 were recruited from outside the public service, the remainder being hired from the term pool. Only 26 per cent of those 35,000 hired as term or casual came from outside the public service. Workers hired from the contingent workforce clearly had an advantage in competitions for permanent jobs, having enjoyed privileged access to the workforce and the opportunity to learn about the job and the public service prior to competing for the position.

According to Chapter 1, managers have met the minimum policy requirement to recruit nationally for all senior level jobs. Otherwise, they have opted for provisions to limit competitions by geographic area. This option is used to manage large numbers of candidates. As a result, 19 per cent of all externally advertised jobs and 28 per cent in the National Capital Region use a national area of selection. Under the new Public Service Employment Act, PSEA, Bill C-25 that we adopted two years

ago, managers will have even greater discretion over the appointment process. Managers will determine whether to advertise positions and how many candidates to consider for a position.

[Translation]

These statistics do not take into consideration other covert tactics used by managers to undermine the equality and impartiality of the hiring process by hiring casual or temporary employees, without competition, by using employment agencies or headhunters.

I urge you to consult the very long list of employment agencies in the Ottawa region Yellow Pages. Managers regularly use most of these agencies in order to covertly hire employees.

Honourable senators, this information provided by the Public Service Commission and the promises made two years ago so that we would not amend Bill C-25, the Public Service Modernization Act, prove that it is crucial for us to pass Bill S-44 as soon as possible.

Two years ago, the minister responsible for Treasury Board received \$40 million to implement Bill C-25; this amount included funding to update electronic recruiting technology, so as to eliminate geographic restrictions on eligibility.

• (1530)

This has not yet been done. As most of us predicted, the increased flexibility that the Public Service Modernization Act gives managers means that they can constantly impose geographic restrictions. Only 19 per cent of the jobs in all the regions and 28 per cent of the jobs in the National Capital Region are filled in accordance with the Public Service Commission's national hiring policy.

[English]

Honourable senators, I do understand that opening the hiring process for federal jobs to all Canadians will increase the administrative work for managers, but my scales tip for equity and fairness. The administrative burden should not be a factor in respecting Canadians' mobility rights under the Charter of Rights and Freedoms.

Minister Alcock announced two weeks ago that there would be a gradual increase in the percentage of national selection for jobs in the capital region — to 37 per cent in December 2005, to 62 per cent in April 2007, and 93 per cent in December 2007. I welcome this effort. However, two wrongs do not make a right. Let me explain.

This is akin to reverse discrimination. It is not just that, for the last three decades of discrimination based on geographic barriers for the 60 per cent of federal jobs in Ottawa, as parliamentarians and Canadians we should accept this concept. The reality is that, still, 40 per cent of federal jobs across the country will have geographic barriers for all Canadians, including those living in the capital region. Opening up the 60 per cent of federal jobs in Ottawa is not opening the access to 100 per cent of federal jobs to all Canadians, which is the priority objective of this bill.

We need this bill. We need it to legislate equity and fairness for all Canadians in order that a national area of selection would be mandatory.

I also want to alert honourable senators that, out of the 5,000 or so employees on Parliament Hill, many are permanent employees who are not hired by MPs or senators. They are employees of the House of Commons or of the Senate and the necessary units to make this place work smoothly. Here, also, we witness discrimination in regard to most of the competitions on the basis of geography. Let me give you an example.

This September, the Library of Parliament opened a competition number 05-F-13, closing on September 28, for an indeterminate position as a senior officer, Accounting Operations with Finance and Material Management, carrying a nice salary of between \$62,000 and \$72,000. I wish to table a copy of this competition. May I table a copy of this competition?

Hon. Senators: Agreed.

[Translation]

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Is leave granted for the document to be tabled, honourable senators?

Hon. Senators: Agreed.

[English]

Is it not ironic that, even on Parliament Hill, with parliamentarians representing the voice of all Canadians, even here we allow geographic barriers to employment on the Hill, the centre of our country's democracy? This bill, S-44, does not remove the geographic barriers for employment on Parliament Hill. We should not be required to legislate this to include all Canadians. It should be a given that here, on Parliament Hill of all places, it is for all Canadians.

I therefore request that senators who are members of any committee dealing with the administration of Parliament officially ban geographic barriers from any competition for employment with and for the administration on Parliament Hill. I will certainly have both my eyes and ears on what will be going on.

It is funny that, for decades, successive Canadian governments, their diplomatic corps and all Canadians have taken great pride in promoting equity and fairness around the world. It is time that we indeed bring equity and fairness to bear right here at home, for all our Canadians living from coast to coast to coast. It is most unfortunate that we must legislate equity and fairness in this way for our own people so that their access to federal government jobs is not curtailed, and so that their mobility rights under the Canadian Charter of Rights and Freedoms is not undermined by the federal government administration.

The Canadian Charter of Rights and Freedoms' mobility rights clearly state in article 6:

Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right to pursue the gaining of a livelihood in any province.

[Translation]

Honourable senators, why, in an era of cutting-edge technology and instant communication, does the government select candidates to fill public service positions from among the people whose place of residence is near the position to be filled?

Most people would acknowledge that a skilled person who finds suitable employment based on education and experience is willing to move elsewhere, whether they are in the private sector or the public sector. For years, the hiring of federal employees has been subject to geographical restrictions; as a result, 80 per cent of them come from Montreal, Ottawa or Toronto, and 60 per cent of them live in the National Capital Region.

We can imagine the influence this 80 per cent has on the development of policies and programs. They analyze problems, make recommendations and apply programs based on their local community, their heritage and the knowledge acquired in their region of the country. Parliamentarians and the public then wonder why. Why do programs not satisfy regional needs? Why are policies and programs developed based on urban communities? Why are there so many administrative formalities? Why does everyone have to leave a voice-mail message rather than talk to a person? Why do federal employees not understand the workings of our natural resources processing industries in fisheries, forestry and agriculture? Why do they not understand the needs of seasonal workers in these industries?

Many federal employees do not know anything about the realities of the sectors I have just mentioned, except for the data they analyze and use to formulate their hypotheses. Residents of rural communities and distant regions cannot get federal jobs. They feel left out and lose confidence in their central government. The current process prevents them from benefiting from opportunities that should be offered to them as Canadian taxpayers.

• (1540)

Tax professionals are not concerned about the taxpayer's place of residence. Why should applications from skilled job seekers be rejected because of their place of residence? We are all taxpayers.

The geographical restriction based on a 50-kilometre radius is not acceptable.

[English]

By virtue of the responsibilities and mandate of this institution, honourable senators have a duty to stand for equality of treatment among the population of the diverse regions that compose this great country. By presenting this accessibility bill today, I am doing precisely that. By the assent in 2003 of the new Public Service Modernization Act, managers have greater responsibility and flexibility to consider a number of factors when recruiting and selecting a person for a position. This cause for concern is greater for me in respect of limiting national candidates' access and the potential for bureaucratic patronage. I have been hearing about this serious issue for the last 12 years. As

well, the problem has been highlighted by a lack of planning surrounding human resource management. In many departments this lack amounts to inefficient staffing practices.

The 2004-05 report of the Public Service Commission states in chapter 2 at page 44 that only 36 per cent of organizations within the public service have a human resource plan or planning process in place. Honourable senators, no service organization in the private sector would survive or be able to compete without a minimum of human resource planning. Currently, it seems that managers hire on a whim. No wonder they use the back door to recruit. The remaining 64 per cent of federal departments have no human resource plan so how could they have any idea of the current and future needs of their departments?

The second objective of Bill S-44 is to prohibit bureaucratic patronage or, as the Public Service Commission calls it, "personal favouritism." For many years parliamentarians have suspected that managers were engaged in patronage appointments. In 2003, Auditor General Sheila Fraser audited the hiring process for student summer jobs. She found that 25 per cent of students employed for summer jobs within the public service were hired through bureaucratic patronage. During the hearings of the Standing Senate Committee on National Finance in 2003-04, the issue was raised with Maria Barrados, President of the Public Service Commission of Canada. Thankfully, as a follow-up, the PSC studied the issue and submitted its findings this October in a report entitled, Study of Personal Favouritism and Recruitment within the Federal Public Service. The report contains some interesting data. Page 11 of the report states:

Sixteen percent of our survey respondents believe that personal favouritism occurs often or always in their work unit....28 per cent believe it occurs often or always, 45 per cent believe it occurs some of the time.

Therefore, 73 per cent of public service employees interviewed during the audit acknowledge the occurrence of bureaucratic patronage.

Page 14 of the report states:

We note that not all manipulation of qualifications is evident. In our recent audits, we have found examples of tailoring qualifications to favour a particular candidate or group of candidates in both competitions open to the public and those open only to public servants.

In both examples cited, manipulation is evident. This includes "changing education, language and security requirements to match a specific candidate's profile."

Another report tabled this October by the Public Service Commission is entitled, *Audit of Staffing File Documentation*. Page 2 of the report states:

We found inadequate or missing documentation mostly in the assessment stage. We found that competitive processes were better documented than without competition processes.

The rationale for the use of an appointment without competition was inadequate or missing in 15 per cent of the files; the assessment was inadequate in 38 per cent of the files; and 66 per cent of the files were without competition.

In its 2004-05 annual report, the Public Service Commission reports no political patronage. However, it does link bureaucratic patronage when analyzing and defining the issue of non-partisanship. Page 34 of the report defines bureaucratic patronage or personal favouritism. It states:

...within the federal public service's staffing and recruitment process, personal favouritism involves an inappropriate action or behaviour by a public servant who, by using knowledge, authority or influence, provides an unfair advantage or preferential treatment to: 1) a current employee or 2) a candidate for employment in the public service, for personal gain (benefit) and contrary to the good of the organization.

Most recognize that bureaucratic patronage can have a detrimental effect on the general public and, in particular, on public service employees. It has been demonstrated that the mere perception of bureaucratic patronage in the workplace impacts on employee motivation and effectiveness. Imagine the impact when 73 per cent of our public servants surveyed acknowledge that it was happening in their work units.

This situation is not exclusive to Canada. Other jurisdictions have tried to deal with this problem. For example, in the United Kingdom favouritism or bureaucratic patronage is referred to in the recruitment code, which establishes the fundamental recruitment principle where appointments must be on merit. In New Zealand, this problem is addressed through policy convention. It appears that the Australian model to deal with this issue works in a more efficient manner. Provisions against bureaucratic patronage are made on two levels in Australia. A direct provision was made when they modernized their Public Service Act in 1999. Section 17, entitled "Prohibition on patronage and favouritism," provides that a person exercising powers under the new act or regulation in respect of the engagement of the Australian public service employees, or in relation to the Australian public service employees, must do so without patronage or favouritism. Provisions against bureaucratic patronage are included in the Public Service Commissioner's direction in respect of three of the legislated values. Not only has Australia acted against bureaucratic patronage via principles, conventions and official practices of the department, but also it has given an official legal status that includes a grievance procedure.

• (1550)

Honourable senators, in conclusion, I believe that every competent Canadian should be able to apply for government jobs regardless of their home address and where the job is located in Canada.

Some Hon. Senators: Hear, hear!

Senator Ringuette: It is a question of equity; it is a question of fairness; it is a question of rights under our Canadian Charter of Rights and Freedoms. The current selection process seriously limits job accessibility within the Public Service of Canada to all Canadians and thus deprives all Canadians of better equipped public employees.

It is the objective of this bill to amend the Public Service Employment Act and the act that will replace it to enhance access by Canadians to public service jobs in all parts of Canada by removing geographic limits to the selection process and adding grievance options against bureaucratic patronage. I hope that, like all other Canadians, honourable senators will support this bill and not accept any delay tactics that may be proposed.

On motion of Senator LeBreton, debate adjourned.

CANADA ELECTIONS ACT

BILL TO AMEND—SECOND READING— ORDER WITHDRAWN

On the Order:

Resuming debate on the motion of the Honourable Senator Harb, seconded by the Honourable Senator Mercer, for the second reading of Bill S-22, to amend the Canada Elections Act (mandatory voting).—(Honourable Senator Stratton)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I believe that this item has been debated. It now stands at day 15, and perhaps it might be dropped from the Order Paper.

The Hon. the Acting Speaker: Is that agreed, honourable senators?

Hon. Senators: Agreed.

Order withdrawn.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

MOTION TO ALLOW REINTRODUCTION
OF BILLS FROM ONE PARLIAMENTARY SESSION
TO THE NEXT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Smith, P.C.:

That the Standing Committee on Rules, Procedures and the Rights of Parliament study and make the necessary recommendations on the advisability of amending Senate practice so that bills tabled during a parliamentary session can be reintroduced at the same procedural stage in the following parliamentary session, with a view to including in the Rules of the Senate, a procedure that already exists in the House of Commons and would increase the efficiency of our parliamentary process.—(Honourable Senator Rompkey, P.C.)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, this order now stands at day 15. However, I know that Senator Lapointe wishes to speak on the matter, and I notice that he is not here at the moment. Would senators agree to restart the clock to give him an opportunity to speak on this issue?

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Rompkey, for Senator Lapointe, debate adjourned.

[Translation]

QUESTION OF PRIVILEGE

The Hon. the Acting Speaker: Honourable senators, it is now time to consider a question of privilege, pursuant to notice given earlier today by Senator LeBreton.

[English]

Hon. Marjory LeBreton: Honourable senators, I rise on a question of privilege, of which I have previously given both written and oral notice. My concern arises from meetings with witnesses and some members of the Standing Senate Committee on National Security and Defence that took place yesterday and today in room 705, Victoria Building.

First, no public notice was given of these meetings, in contravention of rule 92(1), which reads:

Except as provided in sections (2) and (3) below, all meetings of Senate standing and special committees shall be held in public and only after public notice.

I note that the proceedings of these meetings were neither recorded nor broadcast, and the absence of public notice effectively made them secret meetings.

Second, to the best of my knowledge, no senator who was not a member of the committee received a notice, which effectively makes it impossible for senators to attend and participate in the deliberations, thereby breaching the fundamental privileges of all senators and essentially rendering inoperative rule 91, which reads:

A Senator though not a member of a committee may attend and participate in its deliberations but shall not vote.

How are senators to attend a meeting of which they have no knowledge?

In this context I would draw to your attention a point of order raised by the Honourable Senator Colin Kenny in which he objected to subcommittees meeting without giving public notice. He based his argument on the breach of rule 91.

In his ruling of June 7, 1999, Mr. Speaker Molgat said:

By giving public notice, committees ensure that all senators, as well as members of the general public, are informed of upcoming meetings. Historically, notice has been provided by a variety of means, ranging from posting paper copies of the notices in various locations on Parliament Hill to the current practice of putting them on the Internet and faxing them directly to interested parties. This rule certainly applies to meetings of standing committees such as the Committee on Internal Economy, Budgets and Administration whenever it meets in public session.

Honourable senators, the purpose of giving notice is to enable both senators and members of the public an opportunity to prepare for the hearings. If no notice is given, people will not only be unprepared, they are likely to be altogether absent. This surely defeats the very purpose of holding hearings in the first place. What is the point of hearings if no one is there to hear them? How useful are hearings if no one is prepared?

(1600)

Third, I understand there was no simultaneous interpretation available during the course of the meetings, which is in contravention of section 4(2) of the Official Languages Act, which reads as follows:

Simultaneous interpretation: (2) Facilities shall be made available for the simultaneous interpretation of the debates and other proceedings of Parliament from one official language into the other.

There may be exigent circumstances that might compel Parliament or its committees to operate without simultaneous interpretation. However, I do not believe that any such difficulties were present this morning or yesterday which might justify the absence of simultaneous interpretation.

Finally, these meetings were not held during the time slot allocated to the Standing Senate Committee on National Security and Defence. While it has been stated repeatedly that committees are the master of their own procedures, scheduling extra meetings with little or, in this case, no notice makes it difficult or impossible for senators to attend.

While those are the basic points I wish to make, I would add that I managed to obtain a copy of a document marked in bold upper case words: "Confidential: Not for Public Distribution" which bore the heading: "Senate Committee on National Security and Defence, Consultations, Ottawa, October 17 and 18" and then listed the agenda. Both listed the meetings that began on the two mornings that are the subject of this question of privilege, with their times and locations noting that: "Participants will meet with committee members for informal discussions on a series of themes."

In closing, I cite Beauchesne's 6th edition page 11, paragraph 24:

...The distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are "absolutely necessary for the due execution of its powers." They are enjoyed by individual Members, because the House cannot perform its functions without unimpeded use of the services of its Members; and by each House for the protection of its members and the vindication of its own authority and dignity.

If a senator is effectively denied the right and the ability to attend meetings of select committees due to the absence of the notice required by the *Rules of the Senate*, that senator cannot perform his or her functions; that senator cannot fulfill his or her duties. The rights of that senator have been infringed, the privileges of that senator have been violated, and the rights and privileges of Parliament itself are accordingly under attack. This attack on our privileges as parliamentarians cannot go unremarked and unchecked.

As I noted when I gave oral notice earlier this day, this is the first opportunity at which I could raise this matter. It directly affects my privileges as a senator, and the privilege of each and every one of us; of all senators, and I believe that this is a grave and serious breach of our privileges. Accordingly, if you find that there is a prima facie case, I stand prepared to move the appropriate motion.

Hon. Colin Kenny: I thank honourable senators for the opportunity to reply.

I agree with the argument that has been put forward by Senator LeBreton. It is essentially correct in terms of the rules, if there had been a meeting of the committee. There was, however, no meeting of the Standing Senate Committee on National Security and Defence at that time. There was a meeting that commenced at 4:30 pm on Monday, October 17, and the usual notice was distributed and sent out by the clerk. That meeting was posted, and notice circulated in the normal way.

What Senator LeBreton is referring to is a meeting that I, personally, was having with a group of individuals, and as a courtesy, I advised the other members of the committee that I was going ahead with this meeting. This was a meeting between a senator and a group of individuals who were assisting me and some members of the Library of Parliament in preparing research to produce documents for subsequent work.

There was never any intention for the committee to meet. To be more precise, there was no meeting of an official nature. The clerk of the committee phoned every member of the committee on Friday, advising them that there was no official committee meeting but that senators should be aware that I was having this meeting. They were free to come. If the people who were attending were of interest to any senator, then I was happy to have those senators present. However, it was not a committee meeting.

I have been advised by the clerk — and I might say that this happened when I was not in Ottawa — that the office of every senator involved was advised that this was not a committee meeting. There was no notice sent out for it. Therefore, I am

somewhat at a loss, inasmuch as I think I am entitled to meet with anybody I want to meet with. In this case, I was meeting with individuals who were interested in the subject matter that I was interested in, and the purpose of that meeting was to better prepare myself — and the people from the library — on a subject matter that is of interest to the committee.

We had a talk. There was no translation. There was no record of the meeting. It took place in room 705 of the Victoria Building simply because there is not enough space in my office for people to sit down and to have the discussion. The only way one could characterize that meeting was as a private meeting. Committee members had been aware for some time that I had intended to meet with these people. It was simply to say to them, "Do not feel excluded, and if you want to, come and sit in." In fact, only one person chose to come and sit in, and they did that today, and they did so for a brief period of time.

For the meeting that was official, which did take place last night, all of the proper rules were followed. The appropriate notice went out. There was translation and there was recording. Proper notice was given and the meeting took place in the proper time slot. That is available for anyone to see.

As for the document that was referred to by Senator LeBreton, I must say I saw that for the first time today. As she stated, it is a document that describes — and I would be happy to table it — my meeting, and then goes on to discuss the other official meetings that were taking place that day. However, they were two totally separate things.

All I can say is that the other members of the committee were advised in an effort to be transparent and not the other way around. They were advised that it was taking place simply because, previously when I had had preparatory meetings, some members of the committee had said, "Well, I would not mind sitting in. If you are going to have a discussion with these people, I would be interested in hearing what they have to say." Honourable senators, that is the explanation of what took place.

• (1610)

Every member of the committee, I believe, will say that they received a phone call in their office from the clerk making sure they understood that it was not an official meeting of the committee. That is why no notice was sent out. We do not send out notices for private meetings. We do not have translation for private meetings. The private meeting was a preparatory exercise so that I, in particular — but the staff as well, who do a great deal of work on these matters — would be better prepared for the work that the committee is doing. That is the explanation.

Hon. David Tkachuk: Senator, please have some respect. We are members of the Senate, of the Parliament of Canada; we are not the village idiots. This is the October 17 and 18 agenda of the consultations of the Standing Senate Committee on National Security and Defence. There was to be an 11:30 a.m. to 4 p.m. thematic discussion with a panel of experts. I will table it for all senators to read. The agenda states that a light working lunch will be provided and that participants will meet with committee members for informal discussions on a series of themes. It then

goes through the themes and the location. It then says that at five o'clock a panel of experts will give testimony, which the honourable senator calls his real meeting. This is not really a meeting. The agenda then goes through to the evening. The next morning the meeting is reconvened with a panel of experts.

Who is the honourable senator trying to kid here? This is a serious matter. There was no translation between 11 a.m. and 4 p.m. so that he could get around the rules. He sought the concurrence of our leadership and his leadership. I am not sure how his leadership responded, but our leadership said no. We did not say no to be disrespectful. We do not say no on this side because we do not respect the good work the committee. We said no because the Rules of the Senate are set up to protect us, the minority. We are the minority in this place. I am hopeful of the day that the honourable senator will be part of the minority and he will understand what all of this means. Our rules are meant to prevent abuses of power and the abuses of the majority. That is exactly what we have here.

It seems that the honourable senator does not care what the rules are. The rules are established so that we can function and provide an opposition to the government in this place. If one committee unilaterally decides to ignore normal procedures and simply go its merry way, others may follow. What is to stop any chairman of the majority party from calling a meeting at any time outside of what has been established in the rules and sending out notices in one official language only to those privileged few who are members of that committee?

Honourable senators, I am a proponent of bilingualism because I do not speak French. If a chairman were to send me this agenda in French only, I would be very upset, as would all honourable senators, whether they speak one language or two or three or four. This agenda was not only the outline of what Senator Kenny calls his non-meeting but also of the meeting itself, which he says was a meeting at five o'clock and is also in here in one official language.

It is my view, Your Honour, that this is a clear question of privilege, one which affects us all and needs to be resolved in short order. A finding of a prima facie case of privilege will enable the Standing Committee on Rules, Procedures and the Rights of Parliament to consider this matter and ensure that it does not occur again.

Senator Kenny: If I may, there have been errors of fact here.

First, Senator Tkachuk, I did not seek any permission to hold this meeting. I did not go to the leadership of either party and request permission to hold the meeting because it was not a committee meeting. There was no need or cause for me to go to either side to request the meeting. I did have a discussion with my deputy leader and advised him that it was not an official committee meeting.

Second, it went out in one language because that is the language that I communicate in. If the honourable senators takes a look at the official committee communications that have taken place since the committee was founded, all of them have been bilingual.

Having said that, for something that is a personal notice from me to my colleagues saying, "Look, I am going ahead with this," I am entitled to communicate in whatever language I choose. It was by way of informing them that I welcomed them to drop in if they wanted to do so. I had really no expectation of people coming to the meeting.

On the other hand, the last time I had a meeting of this, sort I had a senator say, "Had I known you were meeting, I would have been interested and I would have come." That is why I asked that a note be sent around to people. To say that I sought approval from your leadership or my leadership, I did not.

Senator Tkachuk: On a point —

[Translation]

The Hon. the Acting Speaker: Honourable senators, reference has been made to a document. I believe that the honourable senators who referred to it were consenting to its being tabled. Do we have consent for the document to be tabled?

Hon. Senators: Agreed.

[English]

Senator Tkachuk: Your Honour, there seems to be another issue. I want to ensure that I have this right. I believe Senator Kenny said that the clerk was involved in this private meeting. Perhaps the honourable senator will be able to clarify this point and perhaps the Rules Committee could look at this issue, namely, for whom does the clerk work? Does the clerk work for the committee? Is he or she an employee of the chairman of the committee? It seems that these waters have been muddied, and perhaps the Rules Committee could clarify the issue.

Hon. Tommy Banks: I do not want to interrupt Senator Kenny's train of thought, but I want to do a *mea culpa* because it may be affected by the question of privilege.

I held a meeting last night with the clerk of the committee of which I have the honour to be the chair, with two researchers from the Library of Parliament and with a panel of experts who will be appearing before our committee this afternoon. I only invited one other member of my committee to be there. That meeting was in preparation for this evening's meeting. I must say that I do that quite often. I can, if requested, provide the agenda that was prepared for that meeting. It took place last night. The circumstances seem to be virtually identical, and I am wondering whether I have done something wrong and should not in future have meetings in order to be better prepared for subsequent committee meetings with the witnesses who are to appear at those meetings. I ask the question rhetorically, I guess, of Senator Tkachuk.

Senator Tkachuk: Is my honourable friend asking me a question?

Senator Banks: Yes. Was I wrong?

Senator Tkachuk: Perhaps the members of the Rules Committee can look into that as well. They can do that if they wish.

• (1620)

Senator Kenny: In this case, the clerk phoned around simply because there was a regular meeting of the committee that night. To ensure that there was no confusion between the two, I asked the clerk, upon hearing of this notice, to give me a description of what happened. I am happy to read it into the record:

Barbara did a courtesy call to all committee members on Friday, October 14, 2005, as Senator Kenny requested, informing senators of two days of meetings with experts and emphasizing that this was not a formal committee activity. The committee members were told that they were welcome to participate in discussions with researchers and experts and could feel free to come and go as they pleased, but it was by no means a command performance and an official committee activity. Otherwise, an official meeting notice would have been issued.

Barbara provided an overview of both days to all committee members for their interest. The itinerary that was drawn up for the purposes of the experts was e-mailed for their information to Senators Forrestall, Meighen, Banks, Cordy, Day and Munson. Senator Forrestall was the only senator who indicated any interest in attending, and his office was the only office that asked for an overview of which experts would be in attendance.

Barbara received a call from Senator Kinsella's office late Friday afternoon with respect to the meeting with the experts. Barbara emphasized that the experts were witnesses for the evening panel, from 5 to 5:45 on Monday, October 17, 2005, as listed on the meeting notice. The fact that they were meeting with researchers earlier in the day had nothing to do with the Committees directorate; rather, the meetings were initiated by the researchers to maximize the information that could be learned from these qualified specialists.

A representation was also made late Friday afternoon by Senator Kinsella's office to the Deputy Principal Clerk, Cathy Piccinin, raising concerns that the Standing Senate Committee on National Security and Defence was allegedly meeting at a time outside of its allotted 5 p.m. to 9 p.m. Monday night meeting slot. A concern was also raised that a document (itinerary) with the header "Senate Committee on National Security and Defence: Consultations" had been given to certain committee members but concealed from ex officio members. The fact that the document had a header stating the committee name led to the conclusion that the meetings must be official meetings.

It should be emphasized that all arrangements for the day meetings with the experts were made by Senator Kenny's office, and the meetings were carried out with researchers assigned to the committee by the Library of Parliament.

Honourable senators, there was no effort at all to have something that was surreptitious or to have an official meeting of these people. It was simply a courtesy call to let other people know that I was going ahead and having this meeting and, if it was of interest to somebody, they could feel free to come or not, as they chose.

Hon. Michael A. Meighen: Briefly, honourable senators, as a member of this committee, I am well aware of the workload assumed by members of this committee and by the chair in particular. Without for a second questioning the intent of the chair or, indeed, of anybody else, I think the problem lies in the communication of what exactly was proposed to be held. That is often the case, as we all know. Language is such an imperfect tool of communication, whether it is written or spoken.

As I told the chair when the message came to my office, not being resident in Ottawa, and even more so for somebody like Senator Banks, who is resident much farther away than I or Senator Day, the message that came through was that while the proposed gathering was not an official meeting, it was something that would be of great assistance to members of the committee in carrying out their work. Therefore, I, for one, felt rather guilty that I had made previous commitments and was not able to be there.

As I also explained to Senator Kenny, it was not clear in the message that I received that this was essentially a meeting between staff and experts. I know the dilemma that the chair found himself in because, as he mentioned himself, on another occasion he had been criticized for having such a meeting between staff and experts at which he attended and had not informed other members of the committee.

We must be careful, given the *Rules of the Senate* and the necessity of protecting the rights of the minority, about holding too many informal meetings and proceeding in a way that, in many ways, leads people to believe that one is doing indirectly what one cannot do directly. That is the danger.

Certainly, we have a hard-working and talented staff on this committee. They have innumerable meetings with possible witnesses and others. The chair himself, as with any other senator, is entitled to meet with whomever he wishes. The danger is a proliferation of semi-official or unofficial gatherings at which a large number of people are present minus some members of the committee. If these types of meetings continue, we could be in the position of having a very well-informed staff, a very well-informed nucleus of committee members, and substantially less well-informed other members of the committee who were unable to attend these informal meetings as frequently as those who are resident in or near Ottawa.

As far as I am concerned, I would be satisfied with an undertaking or a conclusion that we have to be careful in the holding of informal meetings among a considerable number of people, particularly those related to a committee, because it leads to the type of difficulty that we find ourselves in today. Perhaps

the lesson has been learned, and perhaps, going forward, we can be more careful in these situations. I, for one, hope that we can reconsider our practices and in the future endeavour to limit these types of non-official, unofficial gatherings.

Senator Tkachuk: As a point of clarification, would the "Barbara" that the senator was referring to be Ms. Reynolds, who is the clerk of the committee?

Senator Kenny: Yes.

[Translation]

The Hon. the Acting Speaker: Honourable senators, the answer is in the affirmative. Ms. Reynolds is the clerk of the committee.

[English]

Hon. Madeleine Plamondon: I should like to make a comment. As a senator, and as a member of the Standing Senate Committee on Banking, Trade and Commerce, I did not know that there was some kind of preparation like this with the library staff. Do the people who see the committee and the witnesses on CPAC know that preparations have been made with the witnesses before the questioning? Are the dice loaded because they know in advance the approach, if not the questions?

I will be suspicious from now on, if there are such meetings, about the questions prepared by the committee. I will prepare my own questions.

[Translation]

The Hon. the Acting Speaker: Honourable senators, I think we might be ready to hear from two senators based on the information you have. Unless there is new information, Senator Kenny will now have the floor, followed by Senators Forrestall and Cools.

• (1630)

[English]

Senator Kenny: I rise only because new information has come up to which I need to respond. It is simply to point out that before every meeting of the committee, a very substantial briefing book is prepared.

In the case of our committee, prior to preparing reports, there are issue notes that are done up on each of the issues that senators are likely to want to consider during the course of the preparation of the report. The issue notes try and go through the pros and cons of each subject of the issue.

The way in which the staff prepare for these things is by going and talking to experts in the field and finding out what the pros and cons are of a particular issue. The individuals concerned do not arrive on the staff with the knowledge of every issue that may come forward. As a consequence, they are regularly going out to talk to people about what they know or what their views are, or to get a better explanation so that they can reduce that information so that the committee can understand what the issues are and have a better opportunity to ask questions.

The briefing books are a very onerous task and are as a result, in virtually every case, of the library officials doing research on their own or actually going and talking to people, saying "What do you know about this, and what can you tell us about this given subject?" That information is then reduced down to a size that the committee members can manage and read in a reasonable amount of time. Essentially, it is collated in a way that the senators can take best advantage of during the course of a hearing itself.

It is not an exercise in rigging questions or planting information; it is a matter of collecting information to save senators time, and organizing it in such a way that senators, when they are having a hearing, can ask questions on subjects that are often quite new to them, in a reasonably comprehensive way.

That is the purpose of having these meetings. They are not unusual. I have been in the Senate for 21 years. These sorts of things have been the practice in the Senate, where staff go out and ask experts to help clarify an issue. Please do not read a conspiracy into it; read into it an effort by the committee staff to be diligent in making preparations for senators on the committee.

Hon. J. Michael Forrestall: Honourable senators, I wanted to briefly intervene and make two or three points.

First, I have no question in my mind as to whether or not the committee contravened in any specific way the rules of the chamber with respect to the sittings of committees, their hearings and how they conduct themselves. What the chairman of the committee has indicated to Senate colleagues is essentially correct. It was very simple.

Whether it was an error in communication, a mistake made by a clerk who had been with us and who had left us and who had come back and acted in a normal, understandable way to a direction, I do not know. I do not know the answer to that. I do know that there is no doubt in my mind that the meeting yesterday morning was not a meeting of the committee, in any formal sense whatsoever.

We had an occasion and an opportunity to recall not just witnesses who had already appeared before us — although most of them had — but others as well who had taken the time to read the first report. We wanted to understand what some of the finest military and academic minds in Canada thought about that report. It was important that we go back to the people who had advised us, to see and to determine and to satisfy ourselves that we had probably got it right. There was nothing whatsoever wrong with that, as I understand it. The difficulty will need to lie with your office and your assistants with respect to that; and I assume you will be duly summoned to the appropriate chamber to give consideration to this matter.

My second point is that while I understand the concern, just let me intervene in response to my deputy leader yesterday morning, who asked me not to attend the meeting because it was improper. I had no idea of the basis of that opinion, nor was anyone able to advise me. However, to facilitate my leadership, I avoided attending the meeting when I knew, because of the notices that I had received, that the meeting was highly probably to deal with Bill C-26. There was no difficulty with that.

Where the problem that I have arises is that if we deny ourselves — because we are over-anxious, or we are trying to do too much in too short a period of time, or whatever — we deny ourselves of what is a very useful function of not just the committees of the Senate of Canada but of the other place as well. I find that access to information, no matter how much you think you know about given subjects, is always enhanced and enriched when you review it with those who are known to be expert, and who have demonstrated by their public service and otherwise — through teaching, perhaps, which is a form of public service — all of their lives, that we could only benefit. Hence the reports could only be better — better received, better understood and more credible and believable.

I would not want us to take something that happened here in the last couple of days and turn it into some charade that somebody was perpetrating upon the members of the Senate. That is not what it was about at all. It was about advising those who must finally assist us in putting together reports, to assist them as well as us in understanding the complex issues faced by Canada's national Armed Forces today; and they are complex and very deep.

• (1640)

I would conclude with this observation: Perhaps what is required, whether this is a referral to the appropriate committee or not, I do not think it is necessary for considering whether or not there was a question of privilege. I do not think anyone's privilege has been affected, really. However, what probably needs to be looked at is the way in which we perceive. Let us look at the process to determine whether there is a way to avoid a misunderstanding because this is clearly a misunderstanding. Ms. Reynolds, probably one of the finest clerks ever to serve a committee of the Parliament of Canada, might have made a slip, and I am not saying that she did make one, given her busy schedule. There was confusion as to what was proper and approved. The members of the committee work hard and put in longer hours than anyone else. Do not jump on a system because it is too productive.

Who said that you did not work, Senator Comeau? I know the work that you do and you know that I know, so do not get touchy about things that will not affect you in any way other than beneficially.

Senator Comeau has led this chamber in innovative ways to reach people through video conferencing. Has Senator Comeau ever done that outside his structured committee? I do not know the answer but it is not important. However, it is important that you use it as a tool to obtain correct, up-to-date information to assist the committee in its deliberations. That is what we are after. If there is a better way of doing it then perhaps the committee could tell us about it. I do not think there is basis for a question of privilege here. However, if there is, I will be somewhat surprised and I would ask that honourable senators not let it slow the process or deter committees from seeking any avenue to obtain good, correct information for reports that are necessary to the enhancement of Canada through the Senate.

Hon. Anne C. Cools: Honourable senators, I would like to join this debate that has raised some important issues. Perhaps, honourable senators, I could begin by giving His Honour some assistance by delineating the Speaker's true purpose in this matter.

It is my understanding of rules 43 and 44 of the *Rules of the Senate* that the Speaker's function and purpose in this debate is not to make a decision on the substantive issue of whether there is a breach of privilege, but rather to make a prima facie decision that has the effect of allowing the real debate on the substantive issue to move forward. The Speaker of the Senate has the authority to find the question urgent and important enough that such a motion can be moved and be followed by debate on that motion. Larger issues are being raised as this debate proceeds and it is improper to throw those issues onto the shoulders of the Senate Speaker. I ask that honourable senators understand and support that. Rule 43(1) of the *Rules of the Senate* clearly states, in part:

The preservation of the privileges of the Senate is the duty of every Senator. A violation of the privileges of any one Senator affects those of all Senators and the ability of the Senate to carry out its functions outlined in the *Constitution Act*, 1867. Action to ensure such protection takes priority over every other matter before the Senate.

The rule continues and lays out the conditions to be met by such a question so that the Speaker may deem the matter urgent and a priority. A first blush finding, which is the meaning of prima facie, allows a motion to be moved so that the real debate can take place on the substantive issues. Senators must understand that the process to determine privilege must remain the decision of the senators and the Senate as a whole. That is extremely important. In a way it is a great tragedy that we did away with the committee of privileges as a Committee of the Whole many years ago.

The senator who raised the question of privilege may move a motion and then the true debate is on that particular motion. I ask honourable senators to bear that in mind because many senators are unaware that it is through debate on that motion that the substantive issues are to be tackled. I will speak to that later. It is apparent that there is no malicious intent on the part of the committee or its staff to deprive senators of anything. That should be borne in mind as we move ahead.

The two honourable senators who have initiated this debate on the issue in respect of the Standing Senate Committee on National Security and Defence know that I, and other senators, have great respect for the work of that committee. I hope that this discussion in no way hurts, offends or damages any of the informed, enlightened and erudite persons who appeared before the committee over the last two days, particularly on Monday. Those individuals who might read the *Debates of the Senate* should understand that there is no intention whatsoever to question their knowledge or integrity. Honourable senators, we frequently forget that others are watching and listening to the proceedings of the Senate. Since we are dealing with this

phenomenon, we have a duty to protect those individuals who have come forward voluntarily to appear before committees and to assist senators in their studies.

Honourable senators, I listened with interest to the comments of Senator Kenny and Senator Banks, for whom I have great respect. Senator Banks has intimated and indicated that as a committee chair he has done the same thing, and more than once, I understand. Thus, we should not isolate Senator Kenny and the members of the National Security and Defence Committee in any way. Perhaps we should broaden our minds and consider that these practices might have grown randomly. Before we judge certain senators harshly or cruelly, we should ascertain the degree to which some of these practices might have evolved. In that way, those who are involved in these practices could have an opportunity to curb them. I am convinced that this house, the Senate, would be satisfied should such practices be corrected without impugning any senator or employee of the Senate.

• (1650)

I say this, honourable senators, because I was trained as a child to believe, and I do believe, that the beauty of our system is always the process, and that wherever there is a problem, if we are prepared to do the study and the work, there is a solution.

Having said that, it seems to me that there is a need for us to have some clarification of what the powers of a chairman are and what the duties of a committee are. We know that a committee is a creature of the house. I will quote from *The Chairman's Handbook* by Sir Reginald Palgrave:

Duties and Powers of a Committee

A committee being a body endowed with delegated powers cannot act independently of its originating authority, or exceed the commission entrusted to it, or entrust its duties to others. The assistance of those who appoint the committee is its legitimate function.

In other words, a committee is appointed to assist the chamber. Therefore, Senator Kenny sitting in that situation on Monday was unquestionably attempting to assist the Senate.

Since, as we understand, the committee is the agent, the creature, of the house, we also understand that the chairman is the creature of the committee and therefore the servant of the committee. Likewise, the staff are the servants of the entire committee.

To the extent that Senator Kenny and the committee were attempting to assist the Senate in its study on the issues, I would say that there is not a breach of privilege per se. I think that the issue is more a matter of order.

In any event, if we cannot define exactly how we should proceed, perhaps the originator of the question of privilege could withdraw the question of privilege and the matter could be moved forward in a different manner where we can canvass all the issues pertaining to the proper functioning of a committee.

That is just one idea, and it may not be a workable idea. It would have been better to have put a motion before the chamber discussing the functioning of committees and committee chairmen rather than whether privilege was breached in this situation by a particular chairman. It seems to me that it would be much better if the issues were canvassed through a motion, absent the finding of a question of privilege.

In any event, honourable senators, it is clear to me that there is much to be desired with regard to how committees are functioning these days. I attend many committee meetings, and I am not happy with how many committee chairmen handle those committees, and I am quite often not happy with the way in which many of those committees function. However, I believe the debate should be on those grounds and those issues.

I have it on good information that it is not only Senator Banks and Senator Kenny who are doing this but that other committee

chairmen are doing likewise. That is why I have proposed that we go down a slightly different avenue, but I will accept the decisions that are made. I am looking forward to taking part in the debate on the motion.

[Translation]

The Hon. the Acting Speaker: Honourable senators, I want to thank all the senators who took part in this debate. I will be wise and reserve my ruling so that I may consider what the honourable senators have just said. The ruling will be reported to you at a subsequent sitting.

Hon. Senators: Hear, hear!

The Senate adjourned until Wednesday, October 19, 2005, at 1:30 p.m.



APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

THE SPEAKER

The Honourable Daniel Hays

THE LEADER OF THE GOVERNMENT

The Honourable Jack Austin, P.C.

THE LEADER OF THE OPPOSITION

The Honourable Noël A. Kinsella

OFFICERS OF THE SENATE

CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS

Paul Bélisle

DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES

Gary O'Brien

LAW CLERK AND PARLIAMENTARY COUNSEL

Mark Audcent

USHER OF THE BLACK ROD

Terrance J. Christopher

THE MINISTRY

According to Precedence

(October 18, 2005)

The Right Hon. Paul Martin The Hon. Jacob Austin The Hon. Jean-C. Lapierre The Hon. Ralph E. Goodale The Hon. Anne McLellan

The Hon. Lucienne Robillard

The Hon. Stéphane Dion The Hon. Pierre Stewart Pettigrew The Hon. Andy Scott

The Hon. James Scott Peterson The Hon. Andrew Mitchell

The Hon, William Graham The Hon. Albina Guarnieri The Hon. Reginald B. Alcock

The Hon. Geoff Regan The Hon. Tony Valeri The Hon. M. Aileen Carroll The Hon. Irwin Cotler The Hon. Ruben John Efford The Hon. Liza Frulla

The Hon. Giuseppe (Joseph) Volpe The Hon. Joseph Frank Fontana The Hon. Scott Brison The Hon. Ujjal Dosanjh The Hon. Ken Dryden The Hon. David Emerson The Hon. Belinda Stronach

The Hon. Ethel Blondin-Andrew The Hon. Raymond Chan The Hon. Claudette Bradshaw The Hon. John McCallum The Hon. Stephen Owen

> The Hon. Joseph McGuire The Hon. Mauril Bélanger

The Hon. Carolyn Bennett The Hon. Jacques Saada

The Hon. John Ferguson Godfrey The Hon. Tony Ianno Prime Minister

Leader of the Government in the Senate

Minister of Transport Minister of Finance

Deputy Prime Minister and Minister of Public Safety

and Emergency Preparedness

President of the Queen's Privy Council for Canada and

Minister of Intergovernmental Affairs

Minister of the Environment Minister of Foreign Affairs

Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians

Minister of International Trade

Minister of Agriculture and Agri-Food and Minister of State (Federal Economic Development Initiative for Northern Ontario)

Minister of National Defence Minister of Veterans Affairs

President of the Treasury Board and Minister responsible

for the Canadian Wheat Board Minister of Fisheries and Oceans

Leader of the Government in the House of Commons

Minister of International Cooperation

Minister of Justice and Attorney General of Canada

Minister of Natural Resources

Minister of Canadian Heritage and Minister responsible for Status of Women

Minister of Citizenship and Immigration Minister of Labour and Housing

Minister of Public Works and Government Services

Minister of Health

Minister of Social Development

Minister of Industry Minister of Human Resources and Skills Development and Minister responsible for Democratic Renewal

Minister of State (Northern Development)

Minister of State (Multiculturalism)

Minister of State (Human Resources Development) Minister of National Revenue

Minister of Western Economic Diversification and

Minister of State (Sport)

Minister of the Atlantic Canada Opportunities Agency Minister for Internal Trade, Deputy Leader of the Government in the House of Commons, Minister responsible for Official Languages and Associate Minister of National Defence

Minister of State (Public Health)

Minister of the Economic Development Agency of Canada for the Regions of Quebec and Minister responsible for La Francophonie

Minister of State (Infrastructure and Communities) Minister of State (Families and Caregivers)

SENATORS OF CANADA

ACCORDING TO SENIORITY

(October 18, 2005)

Senator	Designation	Post Office Address
The Honourable		
Jack Austin P.C.	Vancouver South	Vancouver, B.C.
Willia Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray PC	Pakenham	Ottawa, Ont.
C William Doody	Harbour Main-Bell Island	St. John's, Nfld. & Lab.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Pater Michael Pitfield P C	Ottawa-Vanier	Ottawa, Ont.
Michael Virby	South Shore	Halifax, N.S.
Israhmial & Grafetain	Metro Toronto	Toronto, Ont.
Anna C. Cools	Toronto Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kunimag, Que.
Daniel Hays Charles	Calgary	Calgary Alta
Janiel Hays, Speaker	Lethbridge	Lethbridge Alta
Joyce Fairbairn, P.C	Rideau	Ottawa Ont
Colin Kenny	De la Vallière	Montreal One
Pierre De Bane, P.C.	Grand-Sault.	Grand-Sault N R
Eymard Georges Corbin	Mandaham	Toronto Ont
Norman K. Atkins	Markham	Port on Port Nfld & Lab
Ethel Cochrane	Newfoundland and Labrador	Winning Man
Mira Spivak	. Manitoba	Winnipeg, Man.
Pat Carney, P.C.	British Columbia	vancouver, b.C.
Gerald J. Comeau	Nova Scotia	Saumervine, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	. Nova Scotia	Halliax, N.S.
Noël A. Kinsella	. Fredericton-York-Sunbury	Fredericton, N.B.
John Buchanan, P.C	. Nova Scotia	Halitax, N.S.
J. Trevor Eyton	. Ontario	Caledon, Ont.
Wilbert Joseph Keon	. Ottawa	Ottawa, Ont.
Michael Arthur Meighen	. St. Marys	Toronto, Ont.
J. Michael Forrestall	. Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis G. Johnson	. Winnipeg-Interlake	Gimli, Man.
A. Raynell Andreychuk	. Regina	Regina, Sask.
Jean-Claude Rivest	. Stadacona	Quebec, Que.
Terrance R. Stratton	. Red River	St. Norbert, Man.
Marcel Prud'homme, P.C	. La Salle	Montreal, Que.
Leonard I Gustafson	Saskatchewan	. Macoun, Sask.
David Tkachuk	. Saskatchewan	. Saskatoon, Sask.
W David Angus	. Alma	. Montreal, Que.
Pierre Claude Nolin	. De Salaberry	. Quebec, Que.
Mariory LeBreton	Ontario	. Manotick, Ont.
Gerry St. Germain, P.C.	. Langley-Pemberton-Whistler	. Maple Ridge, B.C.
Lise Bacon	De la Durantave	. Laval, Que.
Sharon Carstairs, P.C.	. Manitoba	. Victoria Beach, Man.
Landon Pearson	. Ontario	. Ottawa, Ont.
John G. Bryden	New Brunswick	. Bayfield, N.B.
Rose-Marie Losier-Cool	. Tracadie	. Bathurst, N.B.
Céline Hervieux-Payette P.C.	Bedford	Montreal, Oue.
William H Rompkey P.C.	North West River, Labrador	North West River, Labrador, Nfld. & Lab.
Timum II. Rompkey, I.C	, , , , , , , , , , , , , , , , , , , ,	, , , , , , , , , , , , , , , , , , , ,

Senator	Designation	Post Office Address
Lorna Milna	D. I.C.	
Marie D Doulin	Peel County	Brampton, Ont.
IVIAITE-1. I OUIIII	NOTO DE l'Unigrio/Northern Ontorio	044
Wilfred P Moore	Rougemont	Saint-Laurent, Que.
Willied I. Widdle	Stannone St./Bluenose	Chaster NIC
Catherine S. Callbeck	New Brunswick	Saint-Louis-de-Kent, N.B.
Marisa Ferretti Barth	Prince Edward Island Repentigny	Central Bedeque, P.E.I.
Serge Joyal, P.C.	Kependghy Kennebec	Pierrefonds, Que.
Joan Cook	Newfoundland and Labrador	Montreal, Que.
Ross Fitzpatrick	Okanagan-Similkameen.	St. John's, Nild. & Lab.
Joan Inorne Fraser	De Lorimier	Mandanilo
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George Fully	Newtoundland and Labradas	C4 T-1-1 3 TO 1 0 V 1
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Tolling Daliks	Alberta	Edmonton Alt-
Jane Coldy	Nova Scotia	Dantas and M. C.
Elizabeth M. Hubley	Prince Edward Island	V D D T
Modilia S. D. Jailei	British Columbia	Nonth Warrant D.C.
Gerard A. I fidicit.	Nova Scotia	Class Day N.C.
JUSCOII A. Day	Saint John-Kennahagasia	TT AT D
Michel Biron	Mille Isles	Nicolat Ove
George S. Baker, P.C.,	Newfoundland and Labrador	Candon Nifld P. I - L
Raymond Lavighe	Montarville	Vardun Ouo
David F. Shiltin, P.C.	Cohourg	Towanta Ont
Maria Chaput	Manitoba	Sainta Anna Man
i alla ivicicialit	Naskatchewan	Daning Carl
Percy Downs	New Brunswick	Edmundston, N.B.
cicy Dowlic	l nariottetown	Charlettet D.D.I.
Mac Harb	De Lanaudière	Mont-Saint-Hilaire, Que.
Madeleine Plamondon	Ontario	Ottawa, Ont.
Marilyn Trenholme Counsell	The Laurentides New Brunswick	Shawinigan, Que.
Terry M. Mercer	Northend Halifax	Sackville, N.B.
Jim Munson	Ottawa/Rideau Canal	Caribou River, N.S.
Claudette Tardif.	Alberta	Ottawa, Ont.
Grant Willellell	Alberta	Edmonton Alta
Elaine McCoy	Alberta	Colcomy Alta.
Robert W. Peterson	Saskatchewan.	Paging Sock
ciliali Eva Dyck	Saskatchewan	Sackatoon Sack
Til Eggleton, P.C.	Ontario	Toronto Ont
Halley Rull	Cluny	Tananta Out
Romeo Antonius Dallaire	Ciult	Sainta Foy Oug
ranies S. Cowan,	Nova Scotia	Halifay N C
Andree Champagne, P.C.	Cirandville	Saint Hyacintha Oua
rugii Segai	Kingston-Frontenac-Leeds	Kingston Ont
carry W. Campbell	British Columbia	Vancouver R C
Rou A.A. Zimmer	Manitoba	Winninga Man
Dennis Dawson	Lauzon	Sainte Foy Oue
one Goldstein	Rigand	Montreal Oue
Tancis Pox, P.C	Victoria	Montreal Oue
Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations, N.B.

SENATORS OF CANADA

ALPHABETICAL LIST

(October 18, 2005)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	. Liberal
A - dear about A Daynall	Daging	Regina, Sask	Conservative
A . 1 . T. T.	Markham	Loronio Uni	I logicssive Conservative
Assoting Look D.C.	Vancouver South	Valiconvel. D.C	Liberai
Danna Lica	De la Durantave	Laval. One	, , Liberai
Dalvan Caarga C D C	Newfoundland and Labrador	Crander, NIId. & Lab	. Liberal
Danley Tomorry	Alberta	Edmonton, Alta	. Liberai
D' 3 C'-11	Milla Islas	Nicolet Une	, Liberai
Davidon John C	New Brunswick	Bayfield, N.B	Liberai
Duchaman John DC	Halifay	Halifax, N.S.	, , Conscivative
Callbank Cathorina S	Drince Edward Island	Central Bedeque, P.E.I	, , Liberai
C 1 11 T 337	Duitinh Columnia	Vancouver B I	LIDELAI
Common Day D.C.	Dritich Columbia	Vancouver B.C	Cullsel valive
Canada Chanan D.C.	Manitoha	VICTORIA DEACH. IVIAIL	Liberai
Champagne, Andrée, P.C	Grandville	Saint-Hyacinthe, Que.	Liberal
Chaput, Maria	. Manitoba	Sainte-Anne, Man.	Liberal
Christensen, Ione	. Yukon Territory	Whitehorse, Y.T	Conservative
Cochrane, Ethel	Newfoundland and Labradof	Saulnierville, N.S.	Conservative
Comeau, Gerald J	Nova Scotta	St. John's, Nfld. & Lab.	Liberal
Cook, Joan	Towns Contro Vork	Toronto, Ont.	Conservative
Cools, Anne C	Grand Sault	Grand-Sault, N.B.	Liberal
Candy Iona	Nova Scotia	Darfmouth, N.S	, . Liberar
Cowon James S	Nova Scotia	Halitax, N.S.	Liberai
Dallaina Damás Antonius	Gulf	Sainte-Foy, Oue	Liberai
Dawson Dannie	I auzon	Ste-Fov, Oue	. Liberai
Day Jasanh A	Saint John-Kennehecasis	Hampion, N.B	, Liberai
D. D Diames D.C.	Do la Vallière	Montreal One	Liberai
D'AT Constalla	Omtorio	Downsview Ont	. Conservative
Doody C William	Harbour Main-Rell Island	St. John S. Niid. & Lab	Flogressive Conscivative
Danina Danari	Charlottetown	Unarionetown, P.E.I	, , Liberai
Davids T. Illiam Dava	Sackatchewan	Saskatoon Sask	New Democrat
Tillatan Ant D.C.	Ontorio	Toronto Oni	Liberai
T-4 I T	Ontario	Caledon Uni	Conscivative
Egirhairn Lauca P.C	Lethbridge	Leinbridge, Alta	. Liberai
Connetti Dorth Marica	Repentiony	Pierreronas, Que	Liberai
Elternatulals Dago	Okanagan-Similkameen	Kelowna B.C	Liberai
Forrectall I Michael	Dartmouth and the Eastern Shore	Dartmouth, N.S	Collect valive
Fox, Francis, P.C.	Victoria	. Montreal, Que	Liberal
Fraser, Joan Thorne	De Lorimier	. Montreal, Que	Liberal
Furey, George	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Liberal
Gill, Aurelien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Liberal
Goldstein, Yoine	Kigaud	Montreal, Que	Liberal
Grafstein, Jerahmiel S	Sackatchewan	Macoun, Sask.	Conservative
Gustaison Leonard J	Ontario	Ottawa, Ont.	Liberal
Harb, Mac	Colgary	Calgary, Alta.	. Liberal
Hays, Daniel, Speaker	Redford	Montreal, Que.	Liberal
Hubbay Fliggboth M	Prince Edward Island	Kensington, P.E.I.	Liberal
FILLORY, ELIZABETH M	British Columbia		

Senator	Designation	Post Office Address	Political
		Address	Affiliation
Johnson Janis G	Winnings Interlake	Cimii Man	_
Ioval Serge P.C	Vannahaa	. Gimli, Man	. Conservative
Kenny, Colin	Didaga	Montreal, Que.	. Liberal
Kenny, Colli	Ottom	Ottawa, Ont.	. Liberal
Kincella Noël A	Guawa	Ottawa, Ont.	. Conservative
Minischa, Noch A	. Fredericion-York-Sunbury	Fredericton N D	0
Langinta Jam	South Shore	Halifax, N.S.	Liberal
Laponite, Jean	Saurei	Magog Oue	T 31 1
Lavigiic, Kavinonu	. Moniarville	Verdun Oue	T 11 1
Lebreton, Marjory	.Ontario	Manotick, Ont.	Conservative
Lusier-Cool, Rose-Marie	. Fracadie	Rathuret N R	T 11 1
Lovelace Nicholas, Sandra	New Brunswick	Tobique First Mations N.D.	T 11
Maneu, Shirley	Kollgemont	Saint-Laurent Oue	T '1 1
Manoviicii, Francis William	Loronto	Toronto Ont	T 21
Massicutte, Laul J.	. De Lanaudiere	Mont-Saint-Hilaire Oue	T. Harris I
viccoy, Elaine,	Alberta	Calgary Alta	Danasania C
viergiich, Michael Althul	. St. Warvs	Loronto (Int	Carran at
MICICEL, TELLA IVI.	Northend Halitax	Caribon Divor N.S.	T. 11 1
Merchant, Pana	.Saskatchewan	Regina Sask	Liboral
vinne, Lorna	. Peel County	Brampton Ont	Libonol
wittenen, Grant	Alberta	Edmonton Alta	T. 11 1
vioore, willred P	.Stanhope St./Bluenose	Chester N.S.	Liberal
viunson, Jim	.Ottawa/Ridean Canal	Ottawa Ont	T. Hannel
viurray, Lowell, P.C.	.Pakenham	Ottawa Ont	Decomposites Comment
Names Rulli	. Chiny	Toronto Ont	D
Nonn, Fierre Claude	. De Salaberry	Ouebec Oue	Camananation
Oliver, Donald H	Nova Scotia	Halifax, N.S.	Conservative
Pearson, Landon	Ontario	Ottawa, Ontario	Liberal
repin, Lucie	Shawinegan	Montreal Oue	T. Hannal
Peterson, Robert W	Saskatchewan	Regina, Sask	Liberal
naien, Gerard A	Nova Scotia	Glace Roy N. C	T. (1,
Pitfield, Peter Michael P.C.	Ottawa-Vanier	Ottawa, Ont.	Liberal
Tantondon, Wadeleine	The Laurentides	Chaumiaan Oue	T 1 1 .
Poulin, Marie-P	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Independent
ov Vivienne	Toronto	Toronto, Ont.	Liberal
rud'homme Marcel P.C	La Salle	Montreal, Que.	Liberal
Ringuette Pierrette	New Brunowick	Edmundston, N.B.	Independent
Rivest Jean-Claude	Stadegone	Edmundston, N.B	Liberal
Pohichand Fernand P.C.	Now Promovials	Quebec, Que.	Independent
Rompkey William H. P.C.	North West Diver Johnson	Saint-Louis-de-Kent, N.B.	Liberal
Germain Gerry P.C.	Longley Domehout on Whitele	North West River, Labrador, Nfld. & Lab.	Liberal
legal Hugh	Langley-Pemberton-whistier	Maple Ridge, B.C.	Conservative
ibbaston Nick C	Ningston-Frontenac-Leeds	Kingston, Ont.	Conservative
mith David B. D.C.	.Northwest Territories	Fort Simpson, N.W.T.	Liberal
nivola Mina	.Cobourg	Toronto, Ont.	Liberal
tollam, Datas Alas	.Manitoba	Winnipeg, Man.	Independent
tratton Torrana P	.Bloor and Yonge	Toronto, Ont.	Liberal
orration, Terrance R	Red River	St Norbert Man	Conservative
ardii, Claudette	Alberta	Edmonton Alta	Liberal
Kumpilk Hound	Saskatchewan	Saskatoon Sask	Concernative
Rachuk, David			
rennoime Counsell, Marilyn.	New Brunswick	Sackville N R	Liberal
Watt, Charlie	. New Brunswick	Sackville, N.B. Kuujjuaq, Que. Winnipeg, Man.	Liberal

SENATORS OF CANADA

BY PROVINCE AND TERRITORY

(October 18, 2005)

ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
Lowell Murray PC	Pakenham	Ottawa
Datar Alan Stallery	Bloor and Yonge	10101110
Poter Michael Pitfield PC	Ottawa-Vanier	Ottawa
Inahmial C Grafetain	Metro Loronto	1010110
Anna C Cools	Toronto Centre-York	TOTORIO
Colin Konny	Rideau	Ollawa
Norman V Atkins	Markham	, I OI OII to
Consiglio Di Nino	Ontario	DOMINISTICM
John Trevor Eyton	Ontario	, Calcuon
Wilhert Joseph Keon	Ottawa	. Ottawa
Michael Arthur Meighen	St Marys	. Toronto
Mariory LeBreton	Ontario	. Manouck
Landon Pearson	Ontario	. Ottawa
L Lorna Milne	Peel County	. Brampton
Marie-P Poulin	Northern Ontario	. Ottawa
Francis William Mahovlich	Toronto	. Toronto
7 Vivienne Pov	Toronto	. Toronto
Dovid D Smith PC	Cobourg	. TOTOTIO
Moo Horb	Ontario	, Ottawa
Tim Muncan	Ottawa/Rideau Canal	, Ottawa
1 Art Eggleton PC	Ontario	. Toronto
Noney Puth	Cluny	. I OI OII to
3 Hugh Segal	Kingston-Frontenac-Leeds	. Kingston
4		•

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

	Senator	Designation	Post Office Address
	THE HONOURABLE		-
12	Charlie Watt . Pierre De Bané, P.C. Jean-Claude Rivest Marcel Prud'homme, P.C W. David Angus Pierre Claude Nolin Lise Bacon Céline Hervieux-Payette, P.C. Shirley Maheu Lucie Pépin Marisa Ferretti Barth Serge Joyal, P.C. Joan Thorne Fraser Aurélien Gill Jean Lapointe Michel Biron Raymond Lavigne Paul J. Massicotte Madeleine Plamondon Roméo Antonius Dallaire Andrée Champagne, P.C. Dennis Dawson	Inkerman De la Vallière Stadacona La Salle Alma De Salaberry De la Durantaye Bedford Rougemont Shawinegan Repentigny Kennebec De Lorimier Wellington Saurel Milles Isles Montarville De Lanaudière The Laurentides Gulf Grandville Lauzon Rigaud	Montreal Quebec Montreal Montreal Quebec Laval Montreal Ville de Saint-Laurent Montreal Pierrefonds Montreal Montreal Montreal Montreal Montreal Montreal Montreal Montreal Montreal Monteal Mashteuiatsh, Pointe-Bleue Magog Nicolet Verdun Mont-Saint-Hilaire Shawinigan Sainte-Foy Saint-Hyacinthe Ste-Foy
24	Francis Fox, P.C.	Victoria	Montreal

SENATORS BY PROVINCE-MARITIME DIVISION

NOVA SCOTIA—10

2	Senator	Designation	Post Office Address
	THE HONOURABLE		
Ī	Michael Kirby	South Shore	Halifax
- (Gerald I Comean	Nova Scotia	Saumerville
]	Donald H. Oliver	Nova Scotia	Halifax
1	I Michael Forrestall	Dartmouth and the Eastern Shore	Dartmouth
1	Wilfred P Moore	Stanhope St./Bluenose	Chester
- 4	Garard A Phalen	Nova Scotia	Glace Bay
,	Terry M Mercer	Northend Halifax	Caribou River
	James S. Cowan	Nova Scotia	Halitax
		NEW BRUNSWICK—10	
-	Senator	Designation	Post Office Address
	THE HONOURABLE		
	Eymard Georges Corbin	Grand-Sault	Grand-Sault
	Noël A Kinsella	Fredericton-York-Sunbury	Fredericton
	John G. Bryden	New Brunswick	Bathurst
	Fernand Robichaud P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
	Joseph A Day	Saint John-Kennebecasis, New Brunswick	Hampton
	Pierrette Ringuette	New Brunswick	Sackville
	Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations
	PR	INCE EDWARD ISLAND—4	
	Senator	Designation	Post Office Address
	The Honourable		
		Prince Edward Island	Central Bedeque
)	Flizabeth M. Hubley	Prince Edward Island Charlottetown	Kensington

Senator

Senator

SENATORS BY PROVINCE-WESTERN DIVISION

MANITOBA—6

	Senator	Designation	Post Office Address
	THE HONOURABLE		
3 4 5	Mira Spivak. Janis G. Johnson Terrance R. Stratton Sharon Carstairs, P.C. Maria Chaput Rod A.A. Zimmer	Winnipeg-Interlake Red River Manitoba Manitoba	Gimli St. Norbert Victoria Beach
	,	DDITICH COLUMNIA	

BRITISH COLUMBIA—6

-	Senator	Designation	Post Office Address
	THE HONOURABLE		
3 4 5	Jack Austin, P.C. Pat Carney, P.C. Gerry St. Germain, P.C. Ross Fitzpatrick Mobina S.B. Jaffer Larry W. Campbell	British Columbia Langley-Pemberton-Whistler Okanagan-Similkameen British Columbia	Vancouver Maple Ridge Kelowna North Vancouver

SASKATCHEWAN-6

Post Office Address

	- Control of the cont	1 out office / fauless
THE HONOURABL 1 A. Raynell Andreychuk 2 Leonard J. Gustafson 3 David Tkachuk 4 Pana Merchant 5 Robert W. Peterson	Regina Saskatchewan Saskatchewan Saskatchewan Saskatchewan Saskatchewan	Macoun Saskatoon Regina Regina
6 Lillian Eva Dyck	Saskatchewan	Regina Saskatoon

Designation

ALBERTA—6

Senator	Designation	Post Office Address
THE HONOUR	ABLE	
3 Tommy Banks	Calgary Lethbridge Alberta	Edmonton
5 Grant Mitchell	Alberta Alberta Alberta Alberta	Edmonton

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND AND LABRADOR—6

Senator	Designation	Post Office Address
The Honourable		
Ethel Cochrane William H. Rompkey, P.C. Joan Cook George Furgy	Harbour Main-Bell Island	. North West River, Labrador . St. John's . St. John's
	NORTHWEST TERRITORIES—	-1
Senator	Designation	Post Office Address
THE HONOURABLE		
Nick G. Sibbeston	Northwest Territories	Fort Simpson
	NUNAVUT—1	
Senator	Designation	Post Office Address
THE HONOURABLE		
Willie Adams	Nunavut	Rankin Inlet
	YUKON TERRITORY—1	
Senator	Designation	Post Office Address
The Honourable		
1 Ione Christensen	Yukon Territory	Whitehorse

ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of October 18, 2005)

*Ex Officio Member

ABORIGINAL PEOPLES

Chair: Honourable Senator Sibbeston

Deputy Chair: Honourable Senator St. Germain

Honourable Senators:

Angus, Austin,

Buchanan,

(or Rompkey) Campbell,

Christensen,

Gustafson, * Kinsella,

(or Stratton)

Lovelace Nicholas,

Léger, Pearson,

Peterson.

Sibbeston,

St. Germain, Watt,

Zimmer.

Original Members as nominated by the Committee of Selection

Angus, *Austin, (or Rompkey), Buchanan, Christensen, Fitzpatrick, Gustafson, *Kinsella (or Stratton), Léger, Mercer, Pearson, Sibbeston, St. Germain, Trenholme Counsell, Watt

AGRICULTURE AND FORESTRY

Chair: Honourable Senator Fairbairn

Deputy Chair: Honourable Senator Gustafson

Honourable Senators:

Austin, (or Rompkey) Callbeck,

Gill,

Gustafson, Hubley, * Kinsella, (or Stratton) Mercer, Mitchell.

Oliver.

Peterson,

Tkachuk.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Callbeck, Fairbairn, Gustafson, Harb, Hubley, Kelleher, *Kinsella (or Stratton), Mahovlich, Mercer, Oliver, Ringuette, Sparrow, Tkachuk.

BANKING, TRADE AND COMMERCE

Chair: Honourable Senator Grafstein

Deputy Chair: Honourable Senator Angus

Honourable Senators:

Angus, Austin, (or Rompkey) Biron,

Fitzpatrick, Harb,

* Kinsella, (or Stratton) Moore, Oliver, Plamondon,

Hervieux-Payette, Grafstein.

Massicotte, Meighen,

Tkachuk.

Original Members as nominated by the Committee of Selection

Angus, *Austin, (or Rompkey), Biron, Fitzpatrick, Grafstein, Harb, Hervieux-Payette, Kelleher, *Kinsella (or Stratton), Massicotte, Meighen, Moore, Plamondon, Tkachuk.

CONFLICT OF INTEREST FOR SENATORS

Chair: Honourable Senator Joyal

Deputy Chair: Honourable Senator Andreychuk

Honourable Senators:

Andreychuk

Angus,

* Austin,

(or Rompkey)

Carstairs,

Joyal,

* Kinsella,

(or Stratton) Robichaud.

Original Members as nominated by the Committee of Selection

Andreychuk, Angus *Austin, (or Rompkey) Carstairs, Joyal, *Kinsella (or Stratton), Robichaud.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

Chair: Honourable Senator Banks

Deputy Chair: Honourable Senator Cochrane

Honourable Senators:

Adams,

Angus, Austin,

(or Rompkey)

Banks,

Buchanan,

Christensen, Cochrane.

Gustafson,

Kenny, * Kinsella.

(or Stratton)

Lavigne,

Milne, Spivak,

Tardif.

Original Members as nominated by the Committee of Selection

Adams, Angus, *Austin, (or Rompkey), Banks, Buchanan, Christensen, Cochrane, Finnerty, Gill, Gustafson, *Kinsella (or Stratton), Lavigne, Milne, Spivak.

FISHERIES AND OCEANS

Chair: Honourable: Senator Comeau

Deputy Chair: Honourable Senator Hubley

Honourable Senators:

Adams,

* Austin, (or Rompkey) Comeau.

Cowan, Hubley,

Johnson,

* Kinsella

(or Stratton)

Mahovlich. Meighen,

Merchant.

Phalen,

St. Germain,

Watt.

Original Members as nominated by the Committee of Selection

Adams, *Austin, (or Rompkey), Bryden, Comeau, Cook, Fitzpatrick, Hubley, Johnson, *Kinsella (or Stratton), Mahovlich, Meighen, Phalen, St. Germain, Watt.

FOREIGN AFFAIRS

Chair: Honourable Senator Stollery

Deputy Chair: Honourable Senator Di Nino

Honourable Senators:

Andreychuk, Austin, (or Rompkey) Carney, Corbin,
De Bané,
Di Nino,
Downe,

Grafstein,

* Kinsella,

(or Stratton)

Mahovlich,

Prud'homme, Robichaud, Segal, Stollery.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin, (or Rompkey), Carney, Corbin, De Bané, Di Nino, Downe, Eyton, Grafstein, *Kinsella (or Stratton), Poy, Prud'homme, Robichaud, Stollery.

HUMAN RIGHTS

Chair: Honourable Senator Andreychuk

Deputy Chair: Honourable Senator Pearson

Honourable Senators:

Andreychuk, Austin, (or Rompkey) Baker, Carstairs, Ferretti Barth,

Kinsella, (or Stratton) LeBreton, Losier-Cool, Oliver, Pearson, Poy.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin (or Rompkey), Carstairs, Ferretti Barth, *Kinsella (or Stratton), LaPierre, LeBreton, Oliver, Pearson, Poulin, Poy.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Furey

Deputy Chair: Honourable Senator Nolin

Honourable Senators:

Austin, (or Rompkey) Banks, Comeau,

Cook,

Day, De Bané, Di Nino, Furey,

Jaffer,

Kenny,
Keon,
* Kinsella,
(or Stratton)
Massicotte,

Nolin, Poulin, Smith, Stratton.

Original Members as nominated by the Committee of Selection

^{*}Austin, (or Rompkey), Banks, Cook, Day, De Bané, Di Nino, Furey, Jaffer, Kenny, Keon, *Kinsella (or Stratton), Lynch-Staunton, Massicotte, Nolin, Poulin, Robichaud, Stratton.

LEGAL AND CONSTITUTIONAL AFFAIRS

Chair: Honourable Senator Bacon

Deputy Chair: Honourable Senator Eyton

Honourable Senators:

Andreychuk, * Austin, (or Rompkey) Bacon,

Bryden, Cools, Eyton, Joyal,

* Kinsella, (or Stratton) Milne.

Nolin,

Pearson, Ringuette, Rivest, Sibbeston.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin, (or Rompkey), Bacon, Cools, Eyton, Joyal, *Kinsella (or Stratton), Mercer, Milne, Nolin, Pearson, Ringuette, Rivest, Sibbeston.

LIBRARY OF PARLIAMENT (Joint)

Joint Chair: Honourable Senator Trenholme Counsell

Vice-Chair:

Honourable Senators:

Lapointe, LeBreton, Poy,

Stratton,

Trenholme Counsell.

Original Members agreed to by Motion of the Senate Lapointe, LeBreton, Poy, Stratton, Trenholme Counsell.

NATIONAL FINANCE

Chair: Honourable Senator Oliver

Deputy Chair: Honourable Senator Day

Oliver,

Honourable Senators:

* Austin,

(or Rompkey) Biron, Cools,

Day, Downe,

Ferretti Barth, Harb,

* Kinsella, (or Stratton) Mitchell,

Ringuette, Segal, Stratton. Murray,

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Biron, Comeau, Cools, Day, Ferretti Barth, Finnerty, Harb, *Kinsella (or Stratton), Mahovlich, Murray, Oliver, Ringuette, Stratton.

NATIONAL SECURITY AND DEFENCE

Chair: Honourable Senator Kenny

Deputy Chair: Honourable Senator Forrestall

Honourable Senators:

Atkins,

Austin, (or Rompkey) Banks, Cordy,

Day, Forrestall, Kenny,

* Kinsella, (or Stratton) Meighen,

Munson, Nolin.

Original Members as nominated by the Committee of Selection

Atkins, *Austin, (or Rompkey), Banks, Cordy, Day, Forrestall, Kenny, *Kinsella (or Stratton), Lynch Staunton, Meighen, Munson.

VETERANS AFFAIRS

(Subcommittee of National Security and Defence)

Chair: Honourable Senator Meighen

Deputy Chair: Honourable Senator Day

Honourable Senators:

Atkins, Austin, Day,

Forrestall,

* Kinsella, (or Stratton) Meighen.

(or Rompkey)

Kenny,

OFFICIAL LANGUAGES

Chair: Honourable Senator Corbin

Deputy Chair: Honourable Senator Buchanan

Honourable Senators:

Austin,

(or Rompkey)

Buchanan,

Chaput,

Comeau,

Champagne, Corbin, Jaffer,

* Kinsella, (or Stratton) Léger, Murray, Tardif.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Chaput, Comeau, Corbin, Jaffer, *Kinsella (or Stratton), Lavigne, Léger, Meighen, Merchant, St. Germain.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

Chair: Honourable Senator Smith

Deputy Chair:

Honourable Senators:

Andreychuk,

Cools,

* Austin, (or Rompkey) Chaput, Di Nino, Fraser,

Furey,
Jaffer,
Johnson.

Joyal,

* Kinsella, (or Stratton) LeBreton, Maheu,

Milne, Robichaud, Smith.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin, (or Rompkey), Chaput, Cools, Di Nino, Fraser, Furey, Jaffer, Joyal, *Kinsella (or Stratton), LeBreton, Lynch Staunton, Maheu, Milne, Poulin, Robichaud, Smith.

SCRUTINY OF REGULATIONS (Joint)

Joint Chair: Honourable Bryden

Vice-Chair:

Honourable Senators:

Baker,

Bryden,

Kinsella,

Nolin.

Biron,

Hervieux-Payette,

Moore,

Original Members as agreed to by Motion of the Senate

Baker, Biron, Bryden, Hervieux-Payette, Kelleher, Lynch-Staunton, Moore, Nolin.

SELECTION

Chair: Honourable Senator Losier-Cool

Deputy Chair: Honourable Senator LeBreton

Honourable Senators:

* Austin, (or Romp)

(or Rompkey) Bacon, Carstairs,

Comeau, Fairbairn,

* Kinsella,

(or Stratton) LeBreton, Losier-Cool,

Rompkey, Stratton,

Tkachuk.

Original Members agreed to by Motion of the Senate

*Austin, (or Rompkey), Bacon, Carstairs, Comeau, Fairbairn, *Kinsella (or Stratton), LeBreton, Losier-Cool, Rompkey, Stratton, Tkachuk.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

Chair: Honourable Senator Kirby

Deputy Chair: Honourable Senator Keon

Honourable Senators:

Austin, (or Rompkey)

Callbeck, Champagne, Cochrane. Cook,

Cordy, Fairbairn. Gill,

Keon, * Kinsella,

(or Stratton)

Kirby,

LeBreton, Pépin,

Trenholme Counsell.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Callbeck, Cochrane, Cook, Cordy, Fairbairn, Gill, Johnson, Keon, *Kinsella (or Stratton), Kirby, LeBreton, Morin, Pépin.

TRANSPORT AND COMMUNICATIONS

Chair: Honourable Senator Fraser

Deputy Chair: Honourable Senator Tkachuk

Honourable Senators:

Austin. (or Rompkey)

Carney, Chaput, Dawson,

Fraser,

Eyton,

Johnson.

* Kinsella,

(or Stratton) Mercer,

Merchant,

Munson, Phalen. Tkachuk,

Trenholme Counsell.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Baker, Carney, Eyton, Fraser, Gill, Johnson. *Kinsella (or Stratton), LaPierre, Merchant, Munson, Phalen, Tkachuk, Trenholme Counsell.

THE SPECIAL SENATE COMMITTEE ON THE ANTI-TERRORISM ACT

Chair: Honourable Senator Fairbairn

Deputy Chair:

Honourable Senators:

Andreychuk,

Austin. (or Rompkey) Day,

Fairbairn, Fraser,

Jaffer,

Joyal,

* Kinsella,

(or Stratton)

Nolin.

Smith.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin, P.C (or Rompkey), Day, Fairbairn, Fraser, Harb, Jaffer, Joyal, *Kinsella (or Stratton), Lynch-Staunton.

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OFFICIAL REPORT (HANSARD)

Wednesday, October 19, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

CONTENTS

(Daily index of proceedings appears at back of this issue).



THE SENATE

Wednesday, October 19, 2005

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

[Translation]

VISITORS IN GALLERY

The Hon. the Speaker: Honourable senators, before we begin, I want to draw to your attention the presence in the gallery of a group of business people and friends from Lac Saint-Jean. They are the guests of the Honourable Senator Gill.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Some Hon. Senators: Hear, hear!

SENATORS' STATEMENTS

SOCIAL CRISES IN ABORIGINAL COMMUNITIES

Hon. Aurélien Gill: Honourable senators, on October 11 and 12, Regional Chief Ghislain Picard and the chiefs of the First Nations of Quebec and Labrador held a special gathering on the issue of social crises within their communities. These leaders are striving to find ways to keep their communities alive and deal with the rise in destructive and suicidal behaviours, particularly among the young.

My sincere congratulations go to those who put together this important meeting, which I attended. Two of our colleagues, Senator Keon and Senator Pépin, were also in attendance. I thank them for spending these two days listening to what chiefs and community stakeholders had to say about the social emergency facing many of our Aboriginal reserves. I appreciated their presence.

This is also a good time to point out the special attention that the Senate Standing Committee on Social Affairs, Science and Technology pays to suicide, drug abuse and mental health. Thank you very much, Senator Kirby!

Everyone knows that our communities are in crisis. They suffer from a suicide and suicidal behaviour rate three times higher than the national average. These same observations were made by the Royal Commission on Aboriginal Peoples in 1995.

In 2002, some 22 people, or 0.07 per cent of our population, committed suicide in our communities in Quebec. That is a lot for our communities where families are very close. This same population percentage for Quebec City would translate into 356 cases of suicide a year.

Suicide is a sign of despair. Cutting life short is the ultimate way to end the suffering an individual can no longer face and for which his community may not have an answer. Suicide and suicidal behaviour in our communities stem from social determinants that can cause deep unhappiness. In our communities, an increased use of drugs and alcohol as a cure for distress, loss of confidence, cultural upheaval and discrimination ties in with extreme poverty, unemployment and substandard housing and sanitary facilities. Individuals living under such conditions are more likely than others to feel a sense of helplessness and despair and commit the irreparable.

Many of our young people grow up under the same harsh conditions as their parents. They run into the same systemic obstacles and are more likely to turn to substance abuse or commit suicide than non-Aboriginals. It is true that when a tree falls in a forest it makes a lot of noise, but it is in silence that the forest grows. Many people in our communities suffer in silence. And just because we do not hear them does not mean they do not exist.

Our communities need support more than ever. I am not talking just about money, but attention. I am talking about support because Aboriginals have a true desire to take charge of their lives. Many culturally adapted and locally designed initiatives to address suicide were presented during this special gathering. We need to make the necessary efforts in the Senate, in the other place, and in the administrative machinery to support without prejudice this approach that will foster a real sense of inclusion in our country. Aboriginals still feel rejected and marginalized today.

Prejudice is not conducive to solidarity and healthy co-existence. We must make the effort to address the Aboriginal issue in another way.

[English]

C.D. HOWE INSTITUTE 2005 TAX COMPETITIVENESS REPORT

Hon. David Tkachuk: Honourable senators, on Tuesday of last week, on the very day the Prime Minister was announcing to an audience of senior public servants that his government had made our tax system more competitive, the C.D. Howe Institute released its 2005 tax competitiveness report.

The analysis clearly showed that, contrary to the Prime Minister's claims, ours is a remarkably highly taxed nation when it comes to investment. High taxes hurt growth and wages, pointing to the need for governments to respond to the growing competitive threat. Despite what appears on the surface to be competitive corporate tax rates, the effective tax rate on business capital investment in Canada is the second highest of 36 industrial and leading developing countries. Even after Parliament finally

passed into law the tax changes Paul Martin sacrificed last spring to appease the NDP, which are now in doubt, we will have the fifth highest rate, assuming everyone else stands still, which of course they will not.

As the C.D. Howe Institute put it:

Despite the past and planned cuts in corporate rates, Canada will retain a burdensome tax climate for investment, undermining its prospects for robust economic growth — unless governments act.

Honourable senators, we may have what appears on the surface to be a competitive statutory rate, but that does not begin to compensate for uncompetitive rates for depreciation, inventories, capital taxes and the sales input on capital inputs. The end result is that only China has a higher effective tax rate, and at least the Chinese will offer a lower concessionary rate. In Ontario, our largest province, the combined federal and provincial taxes on business investments exceed those of China, a nominally communist nation.

The report also highlights serious problems with our personal tax system, with modest-income working families often taxed at 60 per cent or more of their earnings, the result of various benefit clawbacks that are added to income and employment taxes. For a low-income senior citizen, with investment income, the C.D. Howe Institute found that marginal tax rates can reach or exceed 80 per cent.

• (1340)

With that kind of tax hit, is it any wonder why income trusts have been so popular? Can we afford a tax system that discourages both work and investment?

Honourable senators, the C.D. Howe Institute outlined a number of recommendations for federal and provincial governments: reducing marginal income tax rates to correct the severe cases where they exceed 50 per cent; increasing incentives to accumulate retirement income; providing more general tax relief; removing the tax discrimination against corporate equity financing by reducing taxes on dividends; reducing corporate taxes to far more competitive levels; eliminating provincial capital taxes; and reducing tax barriers to outbound and inbound direct foreign investment.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

UPDATE ON STUDY OF MENTAL HEALTH, MENTAL ILLNESS AND ADDICTION

Hon. Michael Kirby: Honourable senators, I rise today to update the chamber on the progress of the Standing Senate Committee on Social Affairs, Science and Technology on its work on mental health, mental illness and addiction.

As many of you will be aware, the committee spent much of the last parliamentary session holding hearings here in Ottawa and in every province and territory. Indeed, Senator Keon returned only

last night from a fact-finding mission to Nunavut. We have heard from more than 200 witnesses from all parts of the country and all parts of Canadian society.

The face of those who suffer from mental illness in Canada is no different from that of your own family members or circle of friends. No point illustrates this better than the fact that one in five Canadians will suffer from a serious episode of mental illness over the course of their lifetime.

The amount of public interest generated by our interim reports released last November has been tremendous. We have had nearly 3,000 requests for copies of each of the committee's first three reports: not bad when you consider that you only need to sell 2,000 copies of a book in Canada for it to be regarded as a bestseller.

This response illustrates that we must find a way to keep the issue of mental health on the public agenda, long after the committee's report is released. We must use the release of the committee's final report as a catalyst to launch a decade of reform, not only in services provided to Canadians living with mental illness, but also in the attitudes of Canadians toward the mentally ill. We must eliminate the stigma of mental illness in Canada.

In its final report, which the committee hopes to release, with the approval of this chamber, early in 2006, the committee will make a strong recommendation for the establishment of an ongoing mechanism to keep the issue of mental illness in the public spotlight and to assist the federal, provincial and territorial governments and non-governmental organizations in better dealing with this important health issue that has been ignored for so long.

The committee is optimistic that intergovernmental agreement to establish such a mechanism will be reached quickly. Indeed, the primary purpose of my statement today is to inform the chamber that Senator Keon and I have been given the unprecedented opportunity of making a presentation to the Federal/Provincial/Territorial Health Ministers' Meeting on Sunday. Our presentation will deal with a specific proposal — which we have discussed over the summer with all provincial and territorial governments, and the federal government — for an ongoing mechanism that will ensure that the issue of mental health is not allowed to die following the release of the committee's report.

The proposal, which has been approved by the committee and appears thus far to have gained reasonable acceptance among the governments, has created among those of us on the committee a sense of optimism that not only this recommendation of the report, but others that will be contained in the committee's final report, will ultimately be adopted by the governments of Canada.

Therefore, honourable senators, I would like to thank not only all the members of my committee for the work they have done but, indeed, all the members of this chamber, many of whom are not members of the committee but who have contributed extensively to our work.

[Translation]

FRANCO-ONTARIAN FLAG

THIRTIETH ANNIVERSARY

Hon. Marie-P. Poulin: Honourable senators, it gives me great pleasure to inform this chamber that the Franco-Ontarian flag is celebrating its thirtieth anniversary. Yes, it has already been 30 years. This flag was first raised on September 25, 1975, at Laurentian University in Sudbury.

This flag is now the seventh official symbol of the Province of Ontario, along with the flag of Ontario, the white trillium, the eastern white pine, the amethyst, the common loon and the coat of arms.

All Ontarians can look at this flag with pride and dignity knowing that there are over one million francophones in Ontario who enrich the French language and culture in Ontario.

[English]

PERSONS CASE

Hon. Elaine McCoy: Honourable senators, as was mentioned yesterday, October is Women's History Month, and so I rise today to pay tribute to one of the major milestones in our history.

Seventy-six years ago yesterday, women first became eligible to be summoned to the Senate. Remarkable though it may seem to you, me and everyone else in this chamber, in those days only "persons" were eligible to be summoned to the Senate; and at least in the eyes of the Supreme Court of Canada, women were not considered persons.

Nevertheless, five women from Alberta took it upon themselves to petition the Supreme Court of Canada to answer the question of whether women indeed could be considered persons for that purpose. The Supreme Court of Canada ruled against it, but in those days you could take the matter forward to London, England, for final judgment.

In asking that question of the Privy Council justices in London, England, Lord Justice John Sankey said: "Why ever not?" That was that, and from then on, women were eligible to be summoned to the Senate.

Of course, the landmark decision would not have been made possible without the efforts of five remarkable women, all from Alberta at the time, and they were: Emily Murphy, Irene Parlby, Louise McKinney, Henrietta Muir Edwards and Nellie McClung.

In paying tribute to those five women from Alberta, I also pay tribute to women from the rest of Canada. They came from Ontario. They came from Quebec. They came from London, England. They came from the farms. They came from the U.S. They had worked for many years in causes of civil justice and of gender equality. It is due to their persistence, strength and courage that I stand here today and take my place in this proud chamber.

As a former Alberta minister for women's issues, as a founding member of the Famous 5 Foundation, and now as a senator for Alberta, I pay tribute to these five courageous women and look forward to the many years of association that I shall have with all of you in pursuing the causes of justice, social equity and making Canada a better place.

ROUTINE PROCEEDINGS

PRIVACY COMMISSIONER

2004-05 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the report of the Privacy Commissioner of Canada for the fiscal year ended March 31, 2005, pursuant to the Privacy Act.

[Translation]

FOOD AND DRUGS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-28, to amend the Food and Drugs Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Mercer, bill placed on the Orders of the Day for second reading two days hence.

• (1350)

[English]

STUDY ON STATE OF HEALTH CARE SYSTEM

NOTICE OF MOTION TO AUTHORIZE SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TO EXTEND DATE OF FINAL REPORT

Hon. Michael Kirby: Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That notwithstanding the Order of the Senate adopted on Thursday, October 7, 2004, the Standing Senate Committee on Social Affairs, Science and Technology, which was authorized to examine and report on issues arising from and developments since the tabling of its final report on the state of the health care system in Canada in October 2002 (mental health and mental illness issues), be empowered to present its final report no later than June 30, 2006 and that the Committee retain all powers necessary to publicize the findings of the committee contained in the final report until October 31, 2006; and

That the committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the chamber.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY STATE OF PREPAREDNESS FOR PANDEMICS

Honourable senators, I give notice that on Tuesday, October 25, 2005, I will move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the state of preparedness for a pandemic on the part of the Canadian Government and in particular on measures that Canadians and Canadian businesses and organizations can take to prepare for a pandemic; and

That the committee submit its report no later than December 8, 2005.

QUESTION PERIOD

FINANCE

MORATORIUM ON CONVERSION OF PUBLIC CORPORATIONS TO INCOME TRUSTS—POSSIBILITY OF TAX REFORM

Hon. W. David Angus: Honourable senators, on September 28 and 29 the Standing Senate Committee on Banking, Trade and Commerce conducted special hearings on the currently highprofile issue of income trusts. These hearings were called on short notice in view of the evident instability created in financial markets by the sudden and extraordinary announcement by Finance Minister Ralph Goodale on September 19 to the effect that the government was placing a moratorium on advance taxation rulings for proposed conversions of public corporations to income trusts. In just two trading days, honourable senators, there was a melt-down of more than \$9 billion in the market cap of Canadian publicly listed income trusts, the vast majority of which were held in registered retirement savings plans and analogous vehicles.

Although we were unable to determine from government officials who came to the hearings the source of this sudden and destabilizing moratorium, we did learn from a variety of witnesses, including tax, legal and investment experts, about the nature of these trusts and about the rationale underlying the creation of this popular vehicle. One undisputed reason that was explained to the committee related to the apparent imbalance in our tax system and, in particular, the different tax treatment of dividends as opposed to interest income.

My question, which is particularly relevant given the statement by the Honourable Senator Tkachuk a few moments ago, is for the Leader of the Government in the Senate. Is the government considering tax reform? Can the Leader of the Government tell the house whether a study is being conducted on how to restore balance? We have not had a tax reform in this country since the Carter commission of the late 1960s and early 1970s, and it is badly needed now. Is tax reform on the agenda?

Hon. Jack Austin (Leader of the Government): Honourable senators, this government, like all governments, constantly carries out reviews of tax policy and practice, as the Honourable Senator Angus is aware. This process occurs in preparation for all annual budgets, which almost inevitably make tax changes of one kind or another. As honourable senators are fully aware, the process is one of consultation throughout the year, particularly in the six months prior to the delivery of a budget, with affected Canadians, the business community, business organizations, provincial governments, municipal governments, and others who wish to make representations with respect to the tax system.

Studies have been conducted with respect to corporate taxation in Canada and the implications for federal and provincial revenues based on both the current forms of corporate taxation, and the novel uses and development of the income trust system.

Senator Angus: Honourable senators, if understand the leader's answer, it might be reasonable to infer from it that something happened between September 8 and 19 in respect of the budget. Members of the Standing Senate Committee on Banking, Trade and Commerce are interested to know what it was. Can the honourable leader tell the house what happened between September 8 and 19 that led to this sudden announcement?

At these meetings I asked Leonard Farber, Director General of Legislation in the Tax Policy Branch of the Department of Finance, what happened within the department between September 8 and 19? What specifically triggered this second announcement? When was the decision made and who was present from the department? Perhaps the leader could clarify what happened and what the government is thinking in respect of this issue.

Honourable senators, nowhere was there mention of the Prime Minister or his office in Mr. Farber's lengthy answer. I repeated my question: What happened between September 8 and September 19 to trigger the moratorium? Again, there was no mention of the Prime Minister in Mr. Farber's reply. My next question was: Did this idea occur to departmental officials or did it come down directly from Minister Goodale? For a third time, there was no mention of the Prime Minister in the reply of Mr. Farber, who said that Mr. Goodale would have to speak for himself. Did someone in the PMO mislead *The Globe and Mail* in its recent article that talked about the Right Honourable Prime Minister having read something about Gordon Nixon of the Royal Bank of Canada and this was the straw that broke the camel's back?

Either a senior official of the Department of Finance gave us an incomplete answer or there is another answer. Which is it, Mr. Minister?

Senator Austin: Honourable senators, the correct answer is that the Minister of Finance speaks for the Government of Canada on these matters.

Senator Angus: Honourable senators, on October 11, an article in *The Globe and Mail* stated:

The Prime Minister's Office had begun to exert influence over the income trust file months earlier. Mr. Nixon's public comments — sprayed across the business section of the country's newspapers — may have been the final straw. Sources say Mr. Martin was jolted by the headlines.

• (1400)

The newspaper then went on to quote a source close to the Prime Minister as saying, "I think it was a wake-up call. This thing is out of control."

Could the leader confirm to us that the decision to end advance tax rulings was a decision made by the Prime Minister himself, or that it was the result of very heavy pressure from the Prime Minister, as he was not satisfied that the Finance Minister had gone far enough by issuing his discussion paper on September 8?

Senator Austin: Honourable senators, my response is that political voyeurism is probably the most entertaining form.

In the practice of government, on financial matters the Minister of Finance speaks for the Government of Canada. The way in which cabinet or government decisions are made is always entirely confidential to the government.

Senator Angus: Honourable senators, having been a distinguished member of the Finance Committee when its mandate was to monitor and, hopefully, ensure the continuing stability of our very sensitive financial markets, the honourable leader understands well that a sudden announcement of such a moratorium would destabilize the markets in the way that they did. I say that in light of the fact that only two weeks earlier the policy had been spelled out clearly by the appropriate ministry. These are sensitive matters. It is obvious that something special happened. That is what we would like to know.

Senator Austin: Honourable senators, from time to time policy changes have to be announced and do impact on various parts of our community. The difficulties occasioned by some are always as a result of the development of public policy which is in the interests of the community as a whole.

I would also say to Senator Angus that I am absolutely delighted that the announcement made by the Minister of Finance came from the Minister of Finance without leakage prior to the event.

HEALTH

POSSIBLE AVIAN FLU PANDEMIC— REQUEST FOR UPDATE

Hon. J. Michael Forrestall: Honourable senators, what avian flu cannot do, taxes will do.

My question is for the Leader of the Government in the Senate. As he knows, the World Health Organization has warned that avian flu could cause a pandemic in such proportions that it could kill many. Britain is estimating that 50,000 could die. In the United States, some 2 million lives could be lost.

We learn of new outbreaks of the deadly H5N1 virus in China. Outbreaks are now being reported in Greece and the Danube delta. WHO has warned that each state should appoint one minister to deal with the crisis. States have been urged to stock two types of antibiotics.

Scientists now say that they feel the disease is being carried by migrating birds, but they cannot identify which species is carrying this disease.

Can the Leader of the Government in the Senate bring us up to date on precisely what is happening in this respect? There is no question about the growing level of fear of this curse.

Hon. Jack Austin (Leader of the Government): Honourable senators, I thank the Honourable Senator Forrestall for his question on this very important topic.

First, some months ago, Canada designated the Minister of Health, the Honourable Ujjal Dosanjh, and the Minister of State for Public Health, Dr. Carolyn Bennett, to be the ministers within the cabinet process who would act on and report with respect to this possible pandemic.

A great deal has been done by Canada. I can say without challenge that Canada is the leader in responding to the apprehension of a pandemic with respect to influenza.

One piece of information is that Canada took the initiative with the World Health Organization to call a meeting of ministers of health internationally. That meeting will be held here in Ottawa to discuss a coordinated global response to the current concerns with respect to a pandemic.

In addition, the same two ministers have organized a meeting with Canadian business leaders to discuss the theoretical and possible impact of a pandemic on the Canadian economy. As a result, we will be as well informed as possible as to the kinds of reactions that will take place within the business community and the market economy that we have.

As the question has made indirect reference to it, it is important to note that birds fly. Countries cannot act alone. Canada has no intention of saying, "We will protect our population. We will do it all by ourselves. We do not have to work or cooperate with any other country." This is now recognized as a global issue.

Birds know nothing about national boundaries. Therefore, the international community understands and, under the aegis of the World Health Organization, is tracking the events in the countries mentioned by Senator Forrestall. In fact, there is an international alert across the entire world community.

Laboratories such as our Level 4 lab in Winnipeg, which is Canada's top lab, are all set to make tests, and are making tests. International materials are sent here, to the United States, to

Great Britain and to other parts of the world. The tests are run and the comparisons are made by these high quality labs. Thus, for the first time, the world community is on top of the potential for a pandemic.

Honourable senators, I know my answer is going on somewhat long, and perhaps I should wait for a supplementary. However, in the meantime I wish to say that Canada has ordered and has stored 16 million doses, I believe it is, of one of the antiviral drugs and has an order, on a priority basis, to produce additional drugs. This one is called Tamiflu. With respect to the nature of the risk, we have designated as a priority those Canadians who may be susceptible to this particular pandemic.

A great deal is known about the virus, something which has not been the case in the past. The pharmaceutical world is being kept on top of the evolving information that research is producing and trying to respond as best they can to preparing antiviral materials that respond to the exact situation that is developing.

Senator Forrestall: I think all Canadians will welcome the response of the Leader of the Government.

As the leader did not touch on this, what preparations is the government considering with respect to persons flying into Canada from other countries? The United States, for example, is setting up systems at their airports to monitor, check for and indeed handle, where identified, early cases of the two principal types of this flu. Are we doing anything in this regard? Are we gearing up to respond to international pleas for assistance?

• (1410)

We have been blessed with the foresight to stockpile, as a result of experience. Can we come to the aid of other countries, the International Red Cross, the Canadian Red Cross and other agencies in response to requirements?

There is a suggestion that, while many countries have taken due note of the potential hazard of these two types of flus, little has been done to put in place in advance the resources to handle such a pandemic, should it occur. Are we doing anything in a physical sense?

Equally important, what process is the government considering to keep Canadians properly advised? I like to ask who is driving the bus and who knows what is going on? Do we have to rely forever on the Canadian Broadcasting Corporation to tell people in this country what is going on?

Senator Austin: I heard three questions raised by Senator Forrestall, and I will try to answer them succinctly. As he indicated, the greatest concern of everyone who is responsible for any part of public policy is the reaction of fear, or an irrational worst-case fear, that is developed due to lack of accurate information. Thus, it is the top priority for the Government of Canada and for us all to ensure that Canadians are perfectly informed with respect to the facts as we know them.

The government has, through the coordination of the two ministers and their scientific advisers, the capacity to make this information known as soon as they believe there is a material development that needs to be communicated. With respect to the question about airports, I am glad that Senator Forrestall pointed out that, in addition to birds flying, people fly. The same systems that were set up to detect people infected with Severe Acute Respiratory Syndrome, SARS, are in place now, and airport staff will be briefed when we know what they are to look for. The problem with trying to screen entrants to Canada from international destinations is well recognized as a result of the SARS experience, and is part of the emergency preparedness that is underway.

Finally, on the question of helping others, Canada has called the international health ministers together not only to share the problem but to develop lines for dealing with the solution. I am sure that the best way to apprehend and reduce the risk, should it emerge, is to catch it where it begins and try to deal with it there.

Finally, my understanding is that there is not yet evidence that the H5N1 virus, which is one of the most concern, is transmitted from person to person. Transmission seems to be from avian exposure to person, but not yet from person to person. The concern is to recognize immediately, should it occur, the mutated virus developing the capacity to transfer from person to person. The whole scientific community engaged in this issue is watching every piece of evidence in the hope that the virus never does develop that mutation.

I am sure that honourable senators are aware from the media that research is even being done into the so-called Spanish Flu that occurred from 1918 to1920, which is said to have killed as many as 50 million people over two years, most of them in their 20s and 30s.

Senator Forrestall: Now you are pushing your luck.

Senator Austin: Efforts are being made, including by Canadian researchers, to recover that flu in order to trace it. Researchers have indicated that the Spanish Flu virus has an unhappy similarity to the H5N1 virus. The alerts are out.

INDUSTRY

MR. DAVID DINGWALL—REGISTRATION AS LOBBYIST FOR BIONICHE LIFE SCIENCES INC.

Hon. David Tkachuk: I will move from the pandemic virus to the corruption pandemic, honourable senators. My question is about Mr. Dingwall's lobbying activities. As honourable senators will recall, as a result of a contract signed in 2000, Bioniche Life Sciences paid David Dingwall a \$464,000 success fee to get money from the government. Mr. Dingwall neglected to register as a lobbyist for Bioniche until three years after the fact.

Given that Mr. Dingwall finally registered as a contingency-fee-basis lobbyist for Bioniche in 2003, could the Leader of the Government in the Senate advise the Senate why this was not caught by the Government of Canada until an audit during the summer of 2005?

Hon. Jack Austin (Leader of the Government): Honourable senators, the minister responsible for the Lobbyists Registration Act is the Honourable David Emerson. He has made it clear in the other place that the recovery of the payment made by the corporation to Mr. Dingwall is a matter between them. It is not a matter affecting the Government of Canada because the Government of Canada did not lose any funds as a result.

With respect to the question of registration, I can only say that Mr. Dingwall is appearing before a committee in the other place this afternoon, and the best evidence of his behaviour will be given by him. I am sure these questions will be asked there.

Senator Tkachuk: I understand the position, but if Mr. Dingwall has \$464,000 in his pocket and Bioniche repaid the government, or the Technology Partnerships Canada, \$464,000, why did the government accept the money from Bioniche?

Senator Austin: As it happens, that company was in derogation of its undertakings. It received funds without meeting the criteria for the transfer of those funds under the Technology Partnerships Canada program. The company, therefore, had an obligation to return those funds.

Senator Tkachuk: Bioniche President Graeme McRae was quoted by The Globe and Mail on October 1 as saying:

Those TPC loans are very complex documents, they're very complex loans. And it is sort of standard procedure to use a lobbyist.

If a business is not capable of understanding a loan application, how does it qualify for a loan?

Senator Austin: Eventually this applicant did not receive the loan.

Senator Tkachuk: It did not receive a loan? Of course it did. It got some \$400,000. Bioniche got over \$4 million.

Senator Austin: How much?

Senator Tkachuk: \$ 3 million or \$4 million.

Senator Austin: Would you repeat the amount?

Senator Stratton: \$3 million to \$4 million.

HEALTH

POSSIBLE AVIAN FLU PANDEMIC— REQUEST FOR UPDATE

Hon. Madeleine Plamondon: Honourable senators, I would like to return to the matter of the threatening bird flu pandemic. The Senate is studying demographics, and finds that people over 65 will be a large part of our population and will be a burden on

the health system. We are studying productivity and we find that we have to be more productive. If there is a pandemic and if the bird flu vaccine is limited, is there not a temptation to solve the problem by selecting those who will get the vaccine? Has this been discussed?

• (1420)

Hon. Jack Austin (Leader of the Government): Honourable senators, of course there is discussion underway as to the priorities with respect to the use of the vaccine should a pandemic occur. My understanding is that it is based on individuals at risk, not on impact with respect to the economy.

THE SENATE

INTRODUCTION OF PAGES

The Hon. the Speaker: Honourable senators, before moving on to Orders of the Day, I would like to introduce some more Pages, starting with Amy Robichaud.

Amy Marlene Robichaud was born and raised in Calgary, Alberta. She is taking a degree in international studies and modern languages, with a minor in public policy, at the University of Ottawa.

[Translation]

Éric Carpentier comes from the magnificent Outaouais region in Quebec and is beginning his third year in biopharmaceutical sciences at the University of Ottawa.

Joannie Jacob was born in Amos, Quebec, but has lived in the small town of Maniwaki since the age of six. She is in her second year of international studies and modern languages at the University of Ottawa. Welcome, all of you.

[English]

ORDERS OF THE DAY

HAZARDOUS MATERIALS INFORMATION REVIEW ACT

BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

Hon. James S. Cowan moved third reading of Bill S-40, to amend the Hazardous Materials Information Review Act.

The Hon. the Speaker: Does the Honourable Senator Cowan wish to speak?

Senator Cowan: No, I have said all I wished to say at second reading.

On motion of Senator Stratton, for Senator Cochrane, debate adjourned.

SPAM CONTROL BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Cochrane, for the second reading of Bill S-15, to prevent unsolicited messages on the Internet.—(Subject-matter referred to the Standing Senate Committee on Transport and Communications on February 10, 2005)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, this item stands at day 15 now but I ask that it remain on the Order Paper, and perhaps we could roll it over. The subject matter is under discussion before the Transport Committee at the moment, and we need to retain the item on the Order Paper for discussion once the committee concludes its consultations.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Order stands.

BANKRUPTCY AND INSOLVENCY ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Biron, seconded by the Honourable Senator Robichaud, P.C., for the second reading of Bill S-30, to amend the Bankruptcy and Insolvency Act (RRSP and RESP).—(Honourable Senator Rompkey, P.C.)

Hon. Madeleine Plamondon: I would like to speak on this matter eventually because I have something to say. I would, therefore, ask that it be kept on the Order Paper.

On motion of Senator Plamondon, debate adjourned.

BANKING, TRADE AND COMMERCE

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE WITHDRAWN

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Banks:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to sit at 3 p.m., on Wednesday, October 19, 2005, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.—(Honourable Senator Rompkey, P.C.)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, this motion has outlived its usefulness. It has been overtaken by events and I ask that it be removed from the Order Paper.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Order withdrawn

• (1430)

[Translation]

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO STUDY 2004-05 ANNUAL REPORT OF CHIEF ELECTORAL OFFICER

Hon. Lise Bacon, pursuant to motion of September 29, moved:

That the document entitled Annual Report of the Chief Electoral Officer of Canada 2004-2005, tabled in the Senate on September 28, 2005, be referred to the Standing Senate Committee on Legal and Constitutional Affairs pursuant to section 75(1) of the Privacy Act.

The Hon. the Speaker: Are honourable senators ready for the question?

[English]

Hon. Lowell Murray: I ask the chair of the committee what her intentions or the intentions of the committee are with regard to this report. Is it her intention to call witnesses, beginning with the Chief Electoral Officer himself, and including representatives of the government and others who may be interested in the issues that are raised in that report?

Senator Bacon: Honourable senators, if this is sent to the committee, the committee will decide what to do.

Motion agreed to.

The Senate adjourned until Thursday, October 20, 2005, at 1:30 p.m.

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Thursday, October 20, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193



THE SENATE

Thursday, October 20, 2005

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before I go to Senators' Statements, I would like to introduce some guests.

First, we have in our gallery guests of the Honourable Senator Watt, Mr. Sol Sanderson and Ms. Elsie Sanderson.

Mr. Sanderson has been involved for some 40 years in the field of First Nations politics and is an important spokesperson and expert on constitutional treaty issues. Ms. Sanderson is a member of the Saskatchewan Indian community and serves as the clerk for the Federation of Saskatchewan Indian Nations. Welcome to the Senate of Canada.

Hon. Senators: Hear, hear!

[Translation]

Honourable senators, I wish to draw to your attention the presence in the gallery of 55 members of the Société Saint-Jean-Baptiste, a well-known French-Canadian association in Sherbrooke. Mr. Marcel Bureau is the executive director and Ms. Micheline Dupuis is the president. They are here at the invitation of the Honourable Senator Pépin. On behalf of all senators, I want to welcome you to the Senate of Canada.

SENATORS' STATEMENTS

FREDERICK JOHNSON AWARD

CONGRATULATIONS TO RECIPIENTS

Hon. Lucie Pépin: Honourable senators, on October 15, the Centre for Research-Action on Race Relations gave out its Frederick Johnson Award.

This award, which honors individuals who have achieved outstanding results in fighting racism, is named after a Black Montreal man who, in 1898, disputed racial segregation in public establishments.

This year's recipients include Marie-Célie Agnant, Giliane Obas, Gladys Charmant, May Chiu, Cécilia Escamilla, Margaret Wilheim and Fehmida Khan. These mothers belonging to various racial and ethnocultural minorities in Quebec are members of Mothers United against Racism. Their slogan is "To the ends of the earth for the love of our children." These women are fighting

against discrimination, particularly racial profiling, to which the young people in their communities are arbitrarily subjected by police authorities.

Four Black Quebecers, Cupidon Lumène, Céliane Célissa, and Michèle and Ronald Champagne were also award winners for their refusal to suffer in silence. They took their employer before the Human Rights Commission. In 2000, many years after the end of racial segregation, these four individuals were being subjected to working conditions reminiscent of that dark period.

In the year 2000 no less, they were prohibited from using the cafeteria for Whites. They had to make do with a small, dirty shed lacking even the bare essentials. They were also subjected to inappropriate comments equating them with apes. After proceedings that lasted four years, they won.

By bestowing this award on these four Quebecers, a call for vigilance has been launched. It says that there are still victims of racism due to the indifference and inaction of unions, the general public and, obviously, governments.

Yet, many Canadians are affected by daily expressions of prejudice based on race. For example, people are systematically refused employment because their name is different; others are considered a threat or a target because they are Black; still others are looked down on or viewed differently because they are Aboriginal.

This year, the Centre for Research-Action on Race Relations created an honorary award, bestowed on the Honourable Irwin Cotler for his lifelong commitment to human rights over racism, anti-Semitism and hate crimes.

• (1340)

I would ask honourable senators to join with me in congratulating the Centre for Research-Action on Race Relations and all of the award winners for refusing to sit by and do nothing when the dignity of others is threatened.

[English]

INTERNATIONAL DAY FOR THE ERADICATION OF POVERTY

Hon. Janis G. Johnson: Honourable senators, Monday, October 17, was International Day for the Eradication of Poverty. This event calls on us to think about our progress and our government's progress against the poverty that affects people around the world. Although Canada is lucky not to suffer from the grinding poverty that grips much of the world, there is still a long way to go before poverty in our country is beaten or even significantly reduced. Not everyone has benefitted from Canada's economic success or the billions of dollars that have accumulated in our federal coffers. Our poverty rate remains high, and the struggles associated with it have not diminished.

Evidence of our failings in this respect is not hard to find. The Canadian Association of Food Banks reported last year that the number of Canadians using food banks has doubled since 1989, while the population at large has increased by only about 10 per cent. This trend is not likely to change in the coming year because high energy costs will force many families to choose between heating their homes and eating.

One of the most vulnerable groups in society, children, are often the first to suffer in tough financial times. Here in the nation's capital, the Ottawa Food Bank helps 38,000 people every month, over 15,000 of whom are children. Given that Canada is considered one of the most prosperous nations in the world, how can we possibly justify 15,000 hungry young bellies in this city alone? How do we explain the persistently high incidence of child poverty in a country that has seen eight federal surplus budgets in a row?

Poverty in Canada is often generational, and it disproportionately affects immigrants, visible minorities and Aboriginal people. As honourable senators are aware, this issue is of particular importance for members of First Nations on reserve and in urban centres. It is encouraging news that the provincial premiers have pledged to end Aboriginal poverty by 2015. This tremendous undertaking will require more federal help and collaboration than the provinces currently receive — not only financial assistance but also in terms of new approaches and creative thinking.

Honourable senators, our country's continued economic success depends on all Canadians working to their greatest potential. Sadly, our governments have failed to nurture that future productivity by neglecting today's less fortunate families and children. However, we cannot lay all the blame on the policy makers. It is the responsibility of every Canadian to ensure that the battle against poverty gets — and stays — on the government's radar. A country with our financial record should have made greater strides by now against this battle than we have made. I call on all honourable senators to summon and direct the political will needed to fight poverty and defeat it, once and for all.

[Translation]

THE HONOURABLE JAMES F. KELLEHER, P.C., Q.C.

TRIBUTE ON RETIREMENT

Hon. Madeleine Plamondon: Honourable senators, when the Senate resumed this fall, I saw our colleague the Honourable James Kelleher tiptoeing out of the chamber. He was retiring. I was surprised and sad that there had been no notice, but I learned later that this was what he wanted. I wish to pay tribute to him today, regardless.

I sat on the Standing Senate Committee on Banking, Trade and Commerce with Senator Kelleher, and in particular, I got to know him far better this year in Brazil at a meeting of the Inter-Parliamentary Forum of the Americas. I discovered him to be a man filled with humour, who was always prepared to

generously share his knowledge and experience. This brief tribute will certainly not do justice to his long career, but in preparing it I discovered what all those in politics have long known: he was a man devoted to his country.

He put his experience as a lawyer specializing in business law to the service of Canada, serving in the important position of Minister of International Trade. He was involved in negotiating and achieving the Free Trade Agreement. He defended Canada's position in the world economy in the Uruguay Round, and I could go on and on. Appointed Solicitor General in 1986, he was then appointed to the Senate in 1990.

I came to greatly appreciate this serious man, though he was not one to take himself seriously, on the Standing Senate Committee on Banking Trade and Commerce, particularly through his anecdotes on political life. His opinions are greatly sought after; he was Vice-Chair of the Special Senate Committee on the subject matter of Bill C-36 and, shortly before retirement, of the Special Senate Committee on the Anti-terrorism Act.

[English]

He is gifted with great qualities and human values. He is a man with great insight and a marvellous sense of humour. He is the kind of person one likes to remember.

NEWFOUNDLAND AND LABRADOR

STEPHENVILLE— EFFECT OF TORRENTIAL RAIN STORM

Hon. Ethel Cochrane: Honourable senators, late last month, torrential rains battered the Stephenville area of Newfoundland and Labrador. More than 150 millimetres of rain fell in only 12 hours, leaving the area in a state of emergency. Some homes were swept clear of their foundations, some sank down as the earth beneath them shifted and some were washed away completely. Cars were overturned, trees were uprooted, bridges and roads were washed out and water and sewer lines were damaged severely. The flood left absolute devastation in its path. More than 150 houses were destroyed or deemed uninhabitable. Hundreds of people were evacuated from homes to which they will never return. An entire neighbourhood had to be evacuated as a result of massive destruction of the water and sewer infrastructure system. Most of the displaced have moved to apartments temporarily, while others are staying with families and friends.

Honourable senators, for a town of about 8,000 people, the extent of the damage is just incredible. Adding to all the frustration and despair, residents have learned that insurance does not cover flood damage; it is simply considered an act of God—a natural disaster. While government has stepped in to provide assistance, at this time it appears that not everyone will receive help. For example, I heard about a family that was renting its home while the father engaged in seasonal work outside the province. They have been told that they do not qualify for assistance. In a similar case, the homeowner had all of his belongings stored in the basement while his home was rented. When the flood came, a rush of water and mud filled the basement, destroying virtually all of his stored possessions. Sadly, these stories are not unique.

Many residents worry that they will be burdened with mortgage payments with no home to show for those payments. Imagine owing tens of thousands of dollars on something that was wiped out in the blink of an eye. Yet, in the midst of all the destruction, while people watched their belongings being washed away, or trapped in mud and becoming worthless before their eyes, there were countless examples that inspired hope. The community came together. People ensured that neighbours were out of danger and brought them to safety, and they shared what drinking water they had. Officials have said that it will take a long time to restore the town to pre-disaster conditions. It has been estimated that it could take 18 months before decisions have been made about all the homes affected.

Honourable senators, I commend the people of Stephenville for their strength and their resilience at such a difficult time. I thank all those involved in the relief effort and clean-up, as well as those who have donated funds to the Stephenville Area Flood Appeal. Support is still needed and much remains to be done, but I am hopeful that, with continued assistance and time, the town will be well on its way to recovery.

BATTLE OF BRITAIN

SIXTY-FIFTH ANNIVERSARY

Hon. Joseph A. Day: Honourable senators, a special anniversary took place last summer on August 12 — the sixty-fifth anniversary of the Battle of Britain, which was a major campaign of World War II. The Battle of Britain was an attempt by Nazi Germany's Air Force, the Luftwaffe, to gain air superiority over British airspace and destroy the Royal Air Force in preparation for an amphibious assault on the British Isles. Secondary objectives were to destroy aircraft production and to terrorize the British people, with the intent of intimidating them into seeking an armistice or surrender.

On August 12, 1940, the German Air Force struck Britain, attacking radar stations, bombing airfields and engaging British fighters. By that time, the Nazis had already overrun Belgium, the Netherlands and Northern France by using the "blitzkrieg" technique that relied on close coordination between ground troops and the air force. It is widely believed that had the Germans succeeded in their aim of destroying the RAF, they would have been able to invade Britain relatively easily. This was at a time when Great Britain was the only European power resisting Nazi Germany, even though Great Britain did enjoy massive support from her Commonwealth partners.

• (1350)

Of course, Canada was one of those Commonwealth partners, and Canadian airmen played an important part in the Battle of Britain. Over 100 Canadian pilots flew on fighter operations during the Battle of Britain. Another 200 fought with the RAF's Bomber Command and Coastal Command. Many more served on ground crews, keeping the fighters, bombers and patrol aircraft flying. These Canadian pilots distinguished themselves not only in the Battle of Britain but also in later battles. Joining the British and Canadians were pilots from Australia, New

Zealand, South Africa, Czechoslovakia, France and Poland as well as from the United States. It was a multinational effort to defend democracy.

The significance of the Battle of Britain is more than a matter of aircraft destroyed and medals earned. It was the first time that air power saved a nation. Not only was it a military victory, it also gave the Allied forces hope for the future. For Canada, the Battle of Britain marked the first occasion when Canadian airmen flew in Canadian units in a sustained battle. The leadership provided by those experienced flyers was instrumental in the rapid development of the Royal Canadian Air Force. Their services and sacrifices will not be forgotten.

[Translation]

ROUTINE PROCEEDINGS

CONFLICT OF INTEREST FOR SENATORS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO ENGAGE SERVICES

Hon. Serge Joyal: Honourable senators, pursuant to rule 58(1)(i), I give notice that at the next sitting of the Senate I will move:

That the Standing Senate Committee on Conflict of Interest for Senators have power to engage the services of such counsel and technical, clerical, and other personnel as may be necessary for the purpose of its examination and consideration of such matters as are referred to it by the Senate, or which come before it as per the Conflict of Interest Code for Senators.

[English]

QUESTION PERIOD

INDUSTRY

MR. DAVID DINGWALL—REGISTRATION AS LOBBYIST FOR BIONICHE LIFE SCIENCES INC.

Hon. David Tkachuk: Honourable senators, yesterday I had some questions in regard to Mr. David Dingwall. I wish to return to the subject of Mr. Dingwall's lobbying activities. We ended our questioning yesterday with not knowing how much money Bioniche actually got. The leader said Bioniche did not get any and I said it was \$3 or \$4 million, which was a guess. The paper reported, and there is information now, that they received some \$17.9 million in those two contracts that Mr. Dingwall worked on.

I wish to go back and quote from Graeme McRae, the President and CEO of Bioniche, who said that his consultants were used "to assist in the application for funds, which was a complicated process due to the complexity of the projects." He said,

"consultants." That is plural: not one consultant, Mr. Dingwall, but "consultants." A search of the lobbyist registration databank turns up only one registered lobbyist for Bioniche: David Dingwall. He turns up as a consultant.

When you register as a consultant, you have to say you are a consultant who works on contingency fee or on fee for service. He marked down in 2003, some three years after Bioniche received the money, or two and a half years after the contracts were completed, that he was a contingency consultant. No one else was registered; only one consultant.

Has the government determined if there were other consultant lobbyists involved in the granting of some \$17 million in technology partnership loans? Were they also paid on a contingency basis over and above the \$464,000 that went to David Dingwall?

Hon. Jack Austin (Leader of the Government): Honourable senators, I thank Senator Tkachuk for the question. He is right. I was under a misapprehension with respect to whether Bioniche had received funds. I am advised that they were awarded two contracts by Technology Partnerships Canada in 2001: one for \$7.6 million and the other for \$9.6 million. My number would then be \$17.2 million.

I am also advised that it is not illegal to hire a lobbyist under Technology Partnerships Canada, but that lobbyist must be registered and the company is prohibited from paying a contingency fee or success fee. Under the rules, should a breach be found, the Government of Canada's recourse is to the company with which it has a contractual relationship. I am further advised that Bioniche engaged Mr. Dingwall to assist in the application for funds, which was a complicated process, as was said yesterday by Senator Tkachuk. Mr. Dingwall received approximately \$350,000 for his services.

On Friday, September 23, 2005, Industry Canada informed Bioniche that the structure of compensation for consultants did not conform to the government's rules, and Bioniche was under default. As a result, Bioniche entered into a settlement with Industry Canada whereby the company will pay to the government an amount equal to the portion of the consultant's fees that were in dispute, plus the costs of the audit.

With respect to the specific question regarding other consultants, honourable senators, I will have to take notice and make inquiries. I have no information to provide at this moment.

Senator Tkachuk: This whole matter is interesting because the point is that it was irregular, illegal — I am not sure of the exact words — but definitely they were not eligible for the loan if they paid a contingency fee. They paid someone \$350,000 to know the paperwork, which was Mr. Dingwall. The paperwork is clear and the rules are clear that you cannot pay a contingency fee. Mr. Dingwall being the expert he is — even though this was his

first contract — should have known that he could not have received a contingency fee after the \$17.2 million in loans were granted.

The second point is that the firm that received the money should have known that they could not pay a contingency fee because in 2003, Mr. Dingwall registered as a contingency fee lobbyist for that very firm.

• (1400)

All of a sudden we have a public record that is known to Mr. Dingwall, that is known to the Government of Canada, that is known to the firm itself, and it is some two years later that the money is paid back. I would say the only reason the money was paid back is that this matter became public knowledge through the newspapers; not because it was not public knowledge.

Therefore, the company then paid the government back after the story made the newspapers, and it was on the front page of the National Post and The Globe and Mail and everything else. Considering their behaviour and Mr. Dingwall's behaviour, will they be eligible to apply for more loans from the Government of Canada?

Senator Austin: Honourable senators, in answering the question, I do not accept the narrative that Senator Tkachuk has provided to the Senate, but I will respond in the following way: The Minister of Industry, who is responsible for this legislation, the Lobbyist Registration Act, has said that the determination of the audit was that there was no deliberate intention of a breach of the regulations by any party, but there was, in fact, a breach of the regulations and that amounts to a default under the contractual terms. The remedy for that default has been the recovery by the government of the fees paid to Mr. Dingwall. So far as the government is concerned, that default under contract has been remedied, and I believe that Bioniche is eligible — or at least is not ineligible by virtue of this event.

Senator Tkachuk: Honourable senators, I just pulled this material off the Internet today. It is a report of the public registry and is in the name of Mr. Dingwall, headed: "Consultant Lobbyist Detail Report." The report says that Mr. Dingwall registered for Bioniche under "Contingency Fees: Yes," in 2003, and he backdated it to 2001. My narrative is correct. In 2003, it is a matter of public record that he was paid a contingency fee.

When this registration was complete, what action did the Government of Canada take with regard to the foundation from which he obtained the money — to recover the money?

Senator Austin: Honourable senators, I do not follow the question, but I will read it and take notice in the hope that there is some answer I could provide.

FOREIGN AFFAIRS

DENMARK—HANS ISLAND SOVEREIGNTY CLAIM

Hon. J. Michael Forrestall: Honourable senators, I have a question for the Leader of the Government in the Senate. I want to express my appreciation for his reaction to questions yesterday about avian flu, and to assure him that where I am coming from today does not alter the fact that I will revisit that question very shortly.

Can the Leader of the Government tell the chamber the present state of discussions with Denmark with respect to Hans Island?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will assume that all of us are familiar with the claims for sovereignty by Canada and by Denmark with respect to Hans Island, which is located in Davis Strait between Ellesmere Island and Greenland. It is a very small island and it is situated in the centre line of distance between Canada and Greenland, and probably that centre line goes across that island. That is what I was told.

As honourable senators know, there have been demonstrations of sovereignty recently by both Canada and Denmark, which have led to discussions. On those discussions I cannot report in any detail, but both countries have agreed to stand off from further actions and permit their discussions to continue.

While I am on my feet, I do want to say that one of the more important relations that Canada has with Denmark is, of course, the Inuit relationship between the peoples of Nunavut and the peoples of Greenland. Canada does want to foster the development of that relationship.

Senator Forrestall: My question is partly to assure ourselves that we, in fact, understand the situation clearly. That is a very sensitive relationship, and one for which we must have full regard. To achieve a full awareness and understanding, could the Leader of the Government confirm that Denmark continually sends Canada diplomatic notification when it "visits" Hans Island?

Senator Austin: Honourable senators, it is part of the current stand-down arrangement that each of the countries will notify the other if there is an intention to visit that island. A further part of that stand-down arrangement is that it will not be visited for the purpose of furthering the claim of sovereignty. The dispute is accepted by both sides. What is now sought is a pragmatic and equitable settlement.

Senator Forrestall: Honourable senators, could the Leader of the Government in the Senate confirm that Canada has sent a diplomatic note to Denmark, or does send one? He has indicated that we do so in order to make a diplomatic visit. What do we do when we dispatch a military expedition to Hans Island, as we did this summer; that military visitation accompanied by our esteemed Minister of National Defence? Was that preceded by a diplomatic notification to Denmark and, if so, what was the response?

Senator Austin: Honourable senators, I will need to make inquiries. I know that the Minister of National Defence indicated

that a message was sent. I do not know whether a diplomatic note was sent, but I will ascertain the facts more accurately. I can, however, say that the stand-down arrangement occurred after that visit.

HEALTH

2004 FIRST MINISTERS' MEETING ON THE FUTURE OF HEALTH CARE—BENCHMARKS FOR MEDICALLY ACCEPTABLE WAIT-TIMES

Hon. Wilbert J. Keon: Honourable senators, my question for the Leader of the Government in the Senate concerns the establishment of national benchmarks for medically acceptable wait-times.

In 2004, the health accord committed the provinces to create evidence-based benchmarks in five priority areas by the end of this year. Media reports over the last week have indicated that at least three of the provinces will not be able to meet the deadline. Conflicting statements have also been attributed recently to Dr. Brian Postl, the federal wait-times adviser, as to whether he believes the deadline will be met.

Can the Leader of the Government in the Senate tell us that the federal government believes national benchmarks will be established in each priority area by December 31?

• (1410)

Hon. Jack Austin (Leader of the Government): Honourable senators, with reference to the question of Senator Keon, I am advised that there was a story in a Canadian Press news wire on October 10, 2005 alleging Dr. Postl, who is the federal adviser on wait-times, had indicated there would not be enough evidence to set benchmarks by December 31, 2005. He issued a statement that same day clarifying his comments. In that statement, he said he believes there will be evidence-based benchmarks in the priority areas in time for the deadline set out in the 2004 first ministers' memorandum. There is no doubt that there is both the capacity and the evidence needed to set up these benchmarks.

He also said to the media on October 10 that the December 31 deadline is the beginning of a much longer process since the 2004 agreement I referred to acknowledged the need for national standards and the need for flexibility in achieving that comparability.

Senator Keon: I thank the Leader of the Government for that answer.

I appreciate there are some complexities associated with this, but I think the job is doable. I think this deadline could be met.

I also express some disappointment on behalf of my colleagues in the Standing Senate Committee on Social Affairs, Science and Technology that a major recommendation that we made has not been followed. I think the recommendation would solve this whole thing; that is, that we provide a health guarantee for patients.

Some Hon. Senators: Hear, hear!

2004 FIRST MINISTERS' MEETING ON THE FUTURE OF HEALTH CARE—HOME CARE DEADLINES

Hon. Wilbert J. Keon: I have another inquiry about home care.

It has been reported that the agreements on home care will not be met at this deadline, either. I believe this is a truly serious situation. I think the entire area of primary care, home care and so forth is not being dealt with quickly enough. Indeed, this area will have major implications if we are struck with a pandemic.

Could the Leader of the Government tell me if he thinks the government can meet the home care deadlines?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will have to make inquiries with respect to the home care deadlines.

As Senator Keon is well aware, provincial health ministers are meeting this coming weekend. I hope they continue to focus on the issues of wait times in all their aspects.

I also hope that Senator Kirby and Senator Keon, who received the distinction of a special invitation to be present at this health ministers' meeting, will press again the exceptionally valuable suggestion regarding wait times to which Senator Keon referred.

NATURAL RESOURCES

MACKENZIE VALLEY PIPELINE— PROGRESS OF NEGOTIATIONS

Hon. Lowell Murray: Honourable senators, I would like to ask a question about the proposed Mackenzie Valley Pipeline Project.

I am aware that the government has made certain commitments to economic and social activities in the event of the project going ahead. However, my interest today is to obtain a report as to the status of that proposed project as we speak.

Is the government awaiting decisions by the proponent companies? Are the companies waiting for decisions by the government? What is the position of the Aboriginal communities at the moment? One reads in the media that all but one of those communities have reconsidered their earlier demand for taxation rights on the pipeline.

In a word, how soon will we know whether this proposed project is a go or whether it is not on for the foreseeable future?

Hon. Jack Austin (Leader of the Government): Honourable senators, starting from the conclusion of Senator Murray's question, the development and construction of the Mackenzie Valley pipeline is of the highest priority in government policy. To that extent, the government has offered a half billion dollars during the construction project to deal with social and economic development impacts that are the multiplier effect of the construction of the pipeline.

The negotiations between the federal government, the territorial government, the Aboriginal communities and the pipeline developers is not concluded, as far as I am aware. There are

still differences with respect to some of the Aboriginal communities in their requests for right of taxation and a guarantee of minimum revenues.

On the other hand, the risk assessment by the pipeline developers is also one that Aboriginal communities keep continuously under review, as the government does. We are unable to come to a conclusion with respect to the risk assessment without knowing what the concluded negotiations are with all of the other parties.

Senator Murray: Honourable senators, as I am sure the minister knows, some of the developers have, or believe they have, other options.

The question that is in my mind at the moment is whether the parties, including the government, are working under any self-imposed deadline to conclude these negotiations. When will we have a definitive word as to whether this is going ahead or whether it is off for the immediate future?

Senator Austin: Honourable senators, I do not have any advice to give with respect to deadlines, and I cannot provide definitive words. I will make specific inquiries. There is a cabinet committee that has the pipeline specifically under its responsibility.

As all of us know, there are differences of view as to what is an appropriate or acceptable investor rate of return. The proposed developers of the pipeline are of course wishing to ensure that all the risk that can be shifted to other players is shifted. That is fair and normal in business and commercial negotiations.

The people who have rights over land want a maximum revenue commitment, and the territorial government has important revenue aspirations with respect to the pipeline. Of course, the Government of Canada would like the pipeline to go forward on terms that are least onerous to the Canadian taxpayers.

Senator Murray: Honourable senators, I have a quick final supplementary question occasioned by the reply the minister has given.

As an experienced political observer as well as a minister of the Crown, would he like to speculate on the appetite of the Canadian people for concessions to oil companies under present circumstances?

Senator Austin: I will take note of your comment, Senator Murray.

[Translation]

RULES, PROCEDURE AND THE RIGHTS OF PARLIAMENT

MOTION TO AMEND RULE 32— SPEAKING IN THE SENATE

Hon. Madeleine Plamondon: Honourable senators, my question is for the Leader of the Government in the Senate. Some time ago, we had discussed having a simultaneous interpretation system for our Senate colleagues who speak Inuktitut. I want to know where things stand.

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, I will have to inform myself with respect to the state of that particular item on the Order Paper.

• (1420)

[Translation]

Senator Plamondon: I would like to add that such a system would be consistent with what the Governor General of Canada, Michaëlle Jean, said in her speech about eliminating the spectre of all the solitudes. We must begin in the Senate: the first solitude is being unable to communicate.

[English]

Senator Austin: I will respond by saying that my impression is that we asked a committee of this chamber to consider that item, and the matter is before that committee at this time.

FISHERIES AND OCEANS

PRIVATIZATION OF RESOURCES— USE OF OFFSHORE LABOUR

Hon. Gerald J. Comeau: Honourable senators, the Leader of the Government in the Senate will know that those of us who have shown interest in the fisheries have, for some time, been looking at the impact that privatizing the fisheries resource might have on communities. We learned last week that Clearwater Seafoods had decided to eliminate 40 jobs in North Sydney, Nova Scotia, and 26 jobs in Grand Bank, Newfoundland, using as an excuse the fact that it could not compete with Chinese labour and therefore would move the primary processing of Arctic surf clams to China.

As the Leader of the Government in the Senate and someone who sits in cabinet, I think the minister and cabinet should be aware that a difficult message is sent to Canadian workers when a resource owned by Canadians — the fishery — and jobs are transported to China because of cheap labour rights and what are probably less stringent environmental regulations. They are basically going after cheap labour.

Would the Leader of the Government in the Senate undertake to bring this matter to cabinet as it looks at the continued privatization of the fisheries resource, as this might be one of the areas of concern to cabinet? We may want to institute a moratorium or at least slow down the privatization of those stocks if the companies that are given the stocks use them to ship jobs offshore.

Hon. Jack Austin (Leader of the Government): Honourable senators, I will treat Senator Comeau's question as a representation and refer it to the appropriate ministers for a response. I am sorry that I cannot give a more substantive answer to a question that, while it sounds simple, raises profound questions with respect to markets, globalization and trade issues, provincial authority and shareholder rights.

While I am on my feet, I wish the Standing Senate Committee on Fisheries and Oceans, chaired by the Senator Comeau, great success in its visit to British Columbia. Salmon is as important to me as the fisheries of the Atlantic are to the honourable senator.

DELAYED ANSWER TO ORAL QUESTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present a response to an oral question raised in the Senate on October 19, 2005, by Senator Tkachuk regarding Technology Partnerships Canada and Bioniche Life Sciences.

INDUSTRY

MR. DAVID DINGWALL—REGISTRATION AS LOBBYIST FOR BIONICHE LIFE SCIENCES INC.

(Response to question raised by Hon. David Tkachuk on October 19, 2005)

The Technology Partnerships Canada (TCP) program has accounted for over \$14 billion of small businesses investing in research and development and technology.

That being said, it is not illegal to hire a lobbyist under Technology Partnerships Canada. A lobbyist must be registered and a company is prohibited from paying a contingency fee or a success fee. Should a breach be found, the Government of Canada has recourse to the company with which it has a contractual relationship.

Bioniche Life Sciences Inc. was awarded two contracts with TPC in 2001, one for \$7.6 million and the other for \$9.6 million.

Bioniche engaged Mr. David Dingwall to assist in the application for funds, which was a complicated process due to the complexity of the projects. Mr. Dingwall received approximately \$350 000 for his services.

On Friday, September 23, 2005, Industry Canada informed Bioniche that the structure of compensation for consultants did not conform to government rules and, accordingly, Bioniche was put in default under the program.

As a result, Bioniche entered into a settlement with Industry Canada, whereby the Company will pay to the government an amount equal to the portion of the consultants' fees that were in dispute, plus costs of the audit.

THE SENATE

INTRODUCTION OF PAGES

The Hon. the Speaker: Honourable senators, before proceeding to Orders of the Day, I should like to introduce two new pages.

Jamie Mouawad was born in Moncton, New Brunswick, to Lebanese parents and is proud of her Canadian and Lebanese cultures. Jamie is in third year in the International Studies and Modern Languages program at the University of Ottawa.

David Taylor was born and raised in Edmonton, Alberta. He is in his first year of studies in Ethics and Society at the University of Ottawa.

Welcome to you both.

Hon. Senators: Hear, hear!

QUESTION OF PRIVILEGE

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, Tuesday, October 18, 2005, Senator LeBreton raised a question of privilege claiming that her rights as a senator had been infringed by certain activities that she attributed to the Standing Committee on National Security and Defence. Senator LeBreton contends that the committee met Monday and Tuesday morning without issuing a notice as required by rule 92(1). In addition, the senator explained that these committee meetings were conducted without simultaneous interpretation and outside the assigned time-slot allocated to the committee. In consequence, the senator argued that she had been deprived of her rights under rule 91 to attend and participate in those meetings, even though she is not a member of this committee.

[Translation]

By way of response, Senator Kenny, who is the Chair of the National Security and Defence Committee, explained that the meetings beginning Monday and Tuesday morning were not in fact committee meetings. Instead, they were private meetings involving a senator and a group of individuals assisting him and some members of the Library of Parliament in preparing research. Even though members of the committee were advised of these meetings, this was done only as a matter of courtesy and in an effort to be transparent. In the end, as Senator Kenny recounted, only one senator took him up on his offer and then for just a brief time. Had the meetings been official, like the meeting held Monday afternoon, Senator Kenny insisted that all the rules for notice, interpretation and transcription would have been followed.

[English]

Several senators then intervened. Senator Tkachuk supported the views expressed by Senator LeBreton. Senator Banks, on the other hand, admitted to holding similar preparatory meetings for his committee. In his comment Senator Meighen warned against the proliferation of semi-official or unofficial meetings. There is a risk, as he indicated, that many will come to believe that the real purpose of these meetings is to do indirectly what cannot be done directly.

Following a brief comment from Senator Plamondon, Senator Forrestall and Senator Cools also expressed their views regarding the merits of the question of privilege. For his part, Senator Forrestall generally supported the efforts of the National Security and Defence Committee to prepare solid reports addressing complex topics. At the same time, Senator Forrestall suggested that there might be a need to look at the process to avoid any misunderstandings. Taking up on the same theme, Senator Cools

proposed that it might be a better approach to consider this problem not as a question of privilege but as an issue that requires study and revue through a different avenue.

[Translation]

I want to thank all honourable Senators who contributed through their exchanges to this question of privilege. The views that were expressed to the Speaker *pro tempore* have assisted me in understanding the nature of the alleged question of privilege which I must now address in order to determine if prima facie it warrants further consideration by the Senate itself.

[English]

The issue is in fact complex and several points need to be carefully considered. As Speaker, however, my primary obligation in considering this complaint is to assess it in terms of the criteria provided in rule 43 that must be met to establish its merits prima facie as a question of privilege. The threshold established by these criteria is fairly high as it must be for any question of privilege.

According to the rule, four criteria need to be met. The alleged breach must be raised at the earliest opportunity. It must deal directly with a privilege of the Senate, its senators or its committees. The grievance to be remedied must constitute a grave and serious breach of privilege. Finally, the issue must be raised in order to seek a genuine remedy for which no other parliamentary process is reasonably available.

[Translation]

With respect to the first two criteria, there is no real difficulty. I am satisfied that the complaint of Senator LeBreton was raised at the earliest opportunity and that it involves an issue that touches the privileges and rights of the Senate and its members. It now remains to analyze more closely the two other criteria.

• (1430)

[English]

The rule states that a point of privilege must "be raised to correct a grave and serious breach." As Speaker, it is incumbent upon me to make a ruling within the context of the normal operations of the Senate with respect to this point. As was mentioned during the exchanges that took place on the question of privilege, the Senate uses its committees to conduct much of its business to examine bills and inquire into different governmental policies. An adjunct to this work involves the use of subcommittees and, as well, informal private meetings with individuals or groups. Both are common and necessary practices that enable senators to more effectively carry out their responsibilities.

At the same time, there is a need to maintain a certain balance, especially with respect to the use of private meetings whose objectives are designed to serve the broader interests of the committee. A fundamental purpose of the rules and practices followed in the Senate is to provide for openness and accessibility. For this reason, the rules require that public notice be given, interpretation services provided, and proper records of decisions

kept. It is also why rule 91 allows senators who are not members of the committee to attend and participate. It should be noted that subcommittees can and do meet while the Senate is sitting and without public notice. However, in their actions and decisions, subcommittees are directly accountable to their main committee, which operates in full public view. This is not the case with respect to so-called private meetings.

What needs to be asked is whether the use of private meeting can cross the line and become, in substance if not in reality, a meeting of a committee or subcommittee in disguise. If committee meetings are held under the guise of private meeting, there is a serious possibility that the Senate could lose control of its ability to manage its affairs effectively. A proliferation of informal and unofficial private meetings could easily conflict with other committee work or even with the sittings of this Chamber itself. The substantial risk of diminished participation by senators could also seriously compromise the Senate's ability to conduct its affairs properly and thoroughly. Seen in this perspective, the abusive use of private meetings could constitute a grave and serious breach under the terms of rule 43(1)(d), and lead to a finding of a prima facie breach of privilege.

[Translation]

The final criterion to consider is whether or not there are other parliamentary processes available to deal with this potential breach. This question of privilege has at its core the activity of committees. Traditionally, committees are regarded as the master of their own proceedings. While this does not mean they operate above the *Rules of the Senate*, their less formal nature often creates certain grey areas of practice that our rules do not conclusively govern. An example of a grey area may very well be the situation we are considering today.

[English]

As Speaker, I am reluctant to become involved in regulating the affairs of committees. It seems to me that there are other more appropriate mechanisms available to do this. With respect to the issue raised in Senator LeBreton's question of privilege, committees themselves could consider how they might standardize the role of subcommittees in performing the kind of important preparatory work guiding their research efforts. This would likely reduce the need for the sort of private meetings complained of in this question of privilege. It might also be useful for the Rules Committee to look into the matter if it thinks that certain practices need to be more formally regulated. This can be done by the committee on its own authority or it can be done by way of an order of reference adopted by the Senate. There may be other means involving the political leadership of the Senate to address this issue. Given that these different options are reasonably available within the meaning of paragraph 43(1)(c), I am unable to find that a prima facie case of privilege has been properly established in this case.

ORDERS OF THE DAY

HAZARDOUS MATERIALS INFORMATION REVIEW ACT

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Cowan, seconded by the Honourable Senator Massicotte, for the third reading of Bill S-40, to amend the Hazardous Materials Information Review Act.

Hon. Ethel Cochrane: Honourable senators, it is my pleasure to speak today at third reading of Bill S-40, to amend the Hazardous Materials Information Review Act.

The witnesses' testimony on this bill was particularly clear and straightforward. It was invaluable. In my remarks today, I would like to highlight just some of what we were told in committee.

In the words of Weldon Newton, President and CEO of the Hazardous Materials Information Review Committee, or the HMIRC, the workplace hazardous materials information system is, in essence, a hazards communication system. It is required by federal, provincial and territorial governments. It requires product labels and safety documentation to include identification of the hazardous ingredients in a chemical product: the specific hazards posed by the product, the precautions to be taken when handling a product, and the first aid measures to be applied in the event of exposure to a product.

It must be noted that full disclosure of the chemical composition of products does not have to take place if doing so would reveal a trade secret — more specifically, where such a revelation would likely cause economic loss to the claimant or economic gain to its competitor.

The HMIRC was created to review such claims against full disclosure. The commission, Mr. Newton explained, reviews the health and safety documentation of those products, issues compliance orders and provides appeal mechanisms under federal, provincial and territorial legislation. The operations of the commission are overseen by a council consisting of 17 members who represent organized labour, industry, each provincial and territorial government and the federal government.

When the commission receives a claim, it must determine two things: First, whether the information to be concealed is indeed a trade secret; and, second, whether disclosure would have economic consequences to that claimant. If the trade secret claim is not upheld, then the ingredients must be disclosed; otherwise the product cannot be sold in Canada.

Another of the commission's primary tasks is scientific analysis. The commission's role is to ensure that the health and safety information that is supplied to employers and workers accurately and completely describes the hazards of the product and its ingredients.

In the event that a claimant or any affected party challenges a decision of the commission, there is an appeals process that is followed. Basically, when an appeal is launched, it is heard by an independent board made up of representatives from government, labour and industry. Essentially, that is how the system works.

The bill before us presents three amendments to the current process. The first amendment deals with the procedures surrounding trade secret claims. Presently, claimants are required to gather and present substantial supporting documentation. This places a great administrative burden on claimants who must compile the documentation, and on the commission that is entrusted with reviewing each detailed submission it receives.

It is interesting to note that in the 17 years that the commission has been in place, virtually all the claims have been found to be valid. In fact, of the over 2,000 claims that have been received and reviewed, only four have been found non-compliant.

Under this amendment, claimants can simply declare the information for which they are seeking a disclosure exemption and keep the supporting documentation on file so that it can be presented at the commission's request. This is expected to significantly reduce the administrative burden for both claimants and the commission.

Of course, the commission will still have access to supporting documentation; and whenever a claim is challenged by an affected party, full documentation will be required from the claimant. However, this will basically free up the resources of the commission so that instead of mulling over mounds of paperwork, more resources will be available to get health and safety information out to workers and employers.

• (1440)

The second amendment presented in Bill S-40 seeks to shorten the time it takes to get health and safety information out to workers and employers. Currently, when a claimant is found to have inaccuracies in their safety documentation, a compliance order is issued and published in the *Canada Gazette*. This amendment will allow claimants to enter into undertakings with the HMIRC to correct these inaccuracies without having a compliance order issued. By changing the process to allow for the necessary changes without the formal order, fully accurate information will get into the hands of those who need it much sooner than is currently the case.

Honourable senators, this is truly important. When Mr. Newton appeared before the committee, he indicated that on health and safety disclosures, a significant number of claims are in non-compliance. He said that there are usually eight to nine inaccuracies or violations per claim. Non-compliance is simply not an option. When the health and safety of workers and employers in this country are at stake, 100 per cent accuracy is and must be the standard. I am confident that the bill before us will guarantee that any inaccuracies are promptly addressed.

The final amendment that Bill S-40 makes to existing legislation affects the appeals process. Once again, this amendment will have the effect of increasing the efficiency of current practices. With

this amendment the commission will be permitted to respond to requests by appeal boards for clarification of the record. Current legislation prohibits the HMIRC from providing input at this stage, even for the purpose of clarification. Appeal boards have often been faced with issues that are, in the words of Mr. Newton, "fairly scientifically or economically complicated and need further clarification from the commission." Therefore, by permitting the commission to step in when needed and sought, the appeals process will be expedited.

Honourable senators, I fully support Bill S-40. The amendments contained in this bill will contribute greatly to the safety of workers and employers who deal with chemical problems. It will mean that inaccuracies in health and safety information will be communicated promptly, which is key, and that the appeals process will be much more efficient as a result of the commission's ability to provide clarification on issues that arise.

When I commented on this bill at second reading in June, I expressed my tentative support for the bill. At that time I wanted to have a couple of unanswered questions addressed before finalizing my decision. I was concerned about the level of input from the provinces and territories on these amendments. I was concerned that according to the act the council may contain as few as four provincial or territorial representatives. The timeframe for the development and progress of these amendments also raised questions in my mind. After all, it was back in 1998, seven years ago, that the renewal process began. The amendments before us were proposed in 2002 and now, near the end of 2005, we finally have them before us in this bill. Given that the issues before us were met with the unanimous support of industry, labour, and all levels of government, this bill was especially slow moving.

Honourable senators, I am happy to report that late last month, a range of testimony before the Standing Senate Committee on Social Affairs, Science and Technology put my concerns to rest. The Parliamentary Secretary to the Minister of Health, the Honourable Robert Thibault, spoke directly to my concerns when he appeared before the committee. On the question of time, Parliamentary Secretary Thibault admitted that there were no simple reasons for the delay of the bill. He said that the process was interrupted each time a new minister of health was named; and once the writ was dropped. While I find this to be convenient and a somewhat reasonable explanation, I fear it does not bode well for the government's ability to pass legislation that for all intents and purposes has the full support of all affected parties. Related to my second concern, Mr. Thibault told the committee that the provinces were involved in the entire renewal process and that they fully support the amendments. This sentiment was further supported by labour witness testimony.

Honourable senators, I commend all those who participated in the consultation process regarding these changes. They have provided a shining example of what can be achieved when stakeholders and government work together for the good of all Canadians. My only wish is that the machinery of government functioned as efficiently. Bearing that in mind, I am hopeful that Bill S-40 is nearing the end of its long journey and that it will soon become the law and begin working to protect the interests of all Canadians.

The Hon. the Speaker: I see no senator rising to speak or adjourn the debate. Are honourable senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

REMOTE SENSING SPACE SYSTEMS BILL

SECOND READING—DEBATE ADJOURNED

Hon. Robert W. Peterson moved second reading of Bill C-25, governing the operation of remote sensing space systems.

He said: Honourable senators, it is my pleasure to speak at second reading of Bill C-25, governing the operation of remote sensing space systems. Let me take this opportunity to ask honourable senators to give the passage of Bill C-25 their most urgent consideration, based on the timely need for the bill; on the bill's features that are responsive to both government and private sector needs; and on the desire to reap the benefits that this bill could have for government, industry and all Canadians.

Canada's first remote sensing satellite, RADARSAT-1, was launched in November 1995. It was optimized for mapping sea ice off Canada's Arctic and Atlantic coasts to aid in the safety and navigation of vessels there. It was also built to exercise Canada's sovereignty in the Far North by providing information on possible incursions into Canada's exclusive jurisdiction under cover of seasonal darkness or extensive cloud.

RADARSAT-1 was originally designed to last five years, but is now about to complete its tenth year of operation. Over that double lifespan, RADRASAT-1 has proved itself several times over for land use, natural resource and environmental management in Canada, and in other countries around the world. As one example among many, it has mapped Antarctica to obtain remote data so important for humanity's understanding of earth's climate change. At its best, RADARSAT-1 can see with the clarity of eight metres resolution — enough to detect a large combine on a Saskatchewan wheat field or a dump truck hauling ore from one of many Alberta's oil sands projects.

The spacecraft's ability to peer at the earth both day and night through fog, smoke and cloud cover has greatly assisted with disaster response and search-and-rescue efforts around the world. Let me cite a few examples. RADARSAT-1's timeliness and versatility contributed to relief operations following natural disasters on numerous occasions. Earthquakes and volcanic eruptions as well as the aftermaths of hurricanes, tsunamis and floods are all clearly visible in radar imagery. The penetrating ability of radar further means that relief officials need not wait for ash or cloud cover to clear over affected regions to acquire imagery of the devastation. Recently, for example, RADARSAT-1 acquired imagery over the South Asian earthquake region, whose relief efforts were hampered by heavy

rains. RADARSAT-1 also helped with the search for a Canadian sailor in the South Atlantic Ocean who went missing during a solo yacht race around the world. It stands ready to assist in future search and rescue efforts.

• (1450)

RADARSAT-1 is able to detect small changes in the surface of the earth using the technique of repeat pass interferometry. These types of images are also invaluable for oil companies seeking to monitor their oil wells to detect damage by the subsidence of the Earth as oil is extracted from the ground. RADARSAT-1's ability to detect oil slicks on the ocean's surface helps these same oil companies find fresh new undersea reserves by searching for oil seepages. RADARSAT-1's imagery can likewise respond quickly in the event of an accidental oil spill into the world's oceans. Timely access to RADARSAT-1 imagery has assisted a nuclear power plant operator in protecting reactor water cooling intake manifolds from ingesting oil released by a 1997 oil tanker accident in the Sea of Japan.

Honourable senators, it makes me proud to know that Canadian vision, Canadian know-how and Canadian investments have put our nation in the vanguard of these beneficial endeavours in outer space. We must now continue to build upon this first success and prepare the way for the private sector to participate more fully in future successes. The aim of RADARSAT-2 is to do exactly that.

RADARSAT-2 is a Canadian satellite to be launched in December 2006. It will provide data continuity for the operational endeavours initiated by RADARSAT-1, but it will also do much more. RADARSAT-2 will possess a three metre resolution; a resolution fine enough to recognize a fighter aircraft parked on the tarmac of a military airfield, or good enough to detect a military vehicle in an open field or on the open road. It will also be able to sense four polarizations of electromagnetic energy, unlike RADARSAT-1, which could only sense one polarization. RADARSAT-2 will thus be able to sense the shape of manmade objects. It is this capability that will make RADARSAT-2 especially useful in the detection of surface vessels approaching Canada's shores on three oceans. Thus, while the purpose of the new RADARSAT will remain predominantly civil, its high performance, versatility and timely response will also engender capabilities that could be of some benefit for the military.

RADARSAT-2 will be Canada's first commercially-owned and operated remote sensing space system, a departure from the RADARSAT-1 experience that has its parallels in the previous privatization of communication satellites in Canada. Canada, through the Canadian Space Agency, has pre-purchased sufficient satellite imagery from RADARSAT-2's operators to meet the government's imagery needs over the new satellite's planned seven-year lifespan. A Canadian company, Macdonald Dettwiler and Associates Ltd., has anted up a substantial amount of its own money to service the needs of the Canadian government and to pursue further market opportunities at home and abroad for advanced radar imagery.

Thus, honourable senators, private capital, commercial technology and managed risk-taking have produced a remote sensing space system that can serve both civil and military. This endeavour is to be applauded and will continue to have the government's full support. Given the satellite's enhanced capabilities, however, it is only prudent that the government at the same time ensures that it has the legislative means to regulate these types of missions in the interests of Canada's security.

I ask my colleagues in the Senate to pass Bill C-25 to help ensure that the beneficial uses of this advanced technology will prevail over alternate uses that could be injurious to the security of Canada or its allies. RADARSAT-2, and all other remote sensing satellites that are to follow, whether they use government, private or public-private partnership business models, will benefit from this regulatory control.

Honourable senators, let me now introduce a few features of Bill C-25 to demonstrate how this bill balances the needs of government and the needs generated by business interests to bring about the smart regulation of Canadian remote sensing satellites in Canada.

Under Bill C-25, anyone who operates a remote sensing space system from within Canada must have a licence. The licence requirement extends to Canadian citizens or corporations operating a satellite system from a location outside Canada. In addition to setting out detailed licensing authorities under the proposed act, Bill C-25 also grants the power for the responsible minister to exempt persons, systems or data from application of the act.

This power has been included in the bill to allow exemption from regulation for those remote sensing systems whose performance characteristics would not generate security concerns. The government does not intend to regulate for the sake of regulation. Furthermore, this power allows exemption of systems operated by Canadians in foreign jurisdictions when those foreign jurisdictions agree to licence those operations to the satisfaction of the responsible minister. As such, Bill C-25 fulfils Canada's international obligations to regulate the space activities of its nationals.

As with other licensing regimes in Canada, the one proposed by Bill C-25 will seek to establish a dialogue between the regulated and the regulator. One feature of the bill stands out in this regard. Clause 8 of the bill enables the applicant to have its application approved very early in a satellite's development, even before the complete system characteristics are known in detail. This approval by the responsible minister will remain binding so long as the circumstances under which the approval was granted do not change. With this feature, the applicant can use such approval to secure the necessary private investments, to fund the remote sensing system, and to seek system participants, both domestic and foreign. Once the space system design is known with sufficient clarity, the applicant can apply to obtain an irregular operating licence. Meanwhile, disclosure of the system's capabilities by the applicant will permit the government to assess risk and risk mitigation aspects of a licence, such as may be needed to protect Canada's security, defence and international relations.

Bill C-25 also has been fashioned to intervene in operations of a licensed satellite only to the extent necessary to protect Canada's national interest. It does not intend or seek to intervene in normal commercial business activities or in areas of exclusive provincial responsibility.

It also seeks to keep the overall regulatory burden as light as possible. Bill C-25 was fashioned to focus the regulatory oversight on the operations of the licensee and, through the licensee, on the operations of their major system participants. It was specifically designed not to impact directly on the activities of every individual who might make use of data provided by the licensee and other major participants. The issuance of a licence and the approval of system participants to perform activities under its authority provide a rather simple way to enable domestic and foreign entities to participate safely in potentially sensitive operations. In this manner, Bill C-25 remains focused on sensitive areas that could generate security concerns and leaves benign operations unencumbered by regulation.

The government has, however, reserved certain powers in order to meet the security, defence and foreign policy Canada needs in times of serious crises or conflicts. One such power is the ability to interrupt normal commercial service. According to clause 14 of Bill C-25, only the Minister of National Defence or the Minister of Foreign Affairs may interrupt normal commercial service. These powers could be necessary in the future to ensure that an enemy does not gain access to data from Canadian regulated satellites that could do Canada or its allies harm. The fact that this decision to exercise these extraordinary powers is held at the ministerial level will help to ensure that they are rarely invoked, and only to protect against the most serious threats against national security. The bill is mindful of the importance of the continuity of data supply for the success of a licensee's business.

In keeping with the desire to balance the security needs of the government on the one hand with the business needs of a licensee on the other, Bill C-25 affords the licensee opportunity to make representations to the minister for any decision the minister may make. Sometimes this requires the minister to provide prior notice of an accident. Sometimes this requires the minister to receive representations subsequent to his or her action. The intent of Bill C-25 is to maintain a continuous channel for dialogue between the licensee and the licensor.

• (1500)

Threats to Canada and its allies may change in a dynamic post-9/11 world and foreign competition may arise to challenge Canada's remote sensing leadership. Locking ourselves into a rigid structure would advantage neither the public nor the private good.

Honourable senators, let me conclude with the following summary rationale for the bill before us. As the ownership of high performance remote sensing space systems in Canada transfers from the public sector to the private sector, we need legislation to protect Canada's vital security, defence and foreign policy interests.

As private sector interest in high performance remote sensing space systems in Canada grows, we need legislation to create a transparent regulatory framework so that licensees, investors, customers and governments alike will know in advance the rules of operation for this new area of commercial endeavours.

Finally, honourable senators, we need legislation to demonstrate to other nations that Canada takes its international obligations seriously in terms of regulating the space activities of its nationals.

We need legislation to help Canadian enterprise secure foreign technology, services and markets and thereby better compete in an increasingly competitive world. We need, in point of fact, this legislation.

Honourable senators, Canada has come a long way in the 10 years since RADARSAT-l one was launched. With this legislation, we can take Canada's remote sensing space industry to even greater heights of success. RADARSAT-2 will be but one additional step on that journey as Canada builds a framework for future constellations of remote sensing satellites to maintain our leadership in this cutting-edge industry.

The Hon. the Speaker: Senator Peterson, will you accept a question?

Senator Peterson: I will do my best.

[Translation]

Hon. Madeleine Plamondon: Honourable senators, a witness who took part in the deliberations of the committee responsible for considering Bill C-25 in the House of Commons told me that some questions remained unanswered. Perhaps Senator Peterson could give me answer. Will MacDonald, the company that will own RADARSAT-2, have the right to sell information to the United States, which could be harmful to Canadians?

[English]

Senator Peterson: Mac Donald, Dettwiler and Associates Ltd. won this competition under request for proposal through a number of others. I think the honourable senator asked if they have to sell it. They do not have to sell it to anyone.

Senator Plamondon: Can they sell this?

Senator Peterson: Under a commercial basis, they could sell data information.

Senator Plamondon: That means that they are the sole owner of the data.

Senator Peterson: First, a client would have to make a contract with them for the data it wanted. The Canadian Space Agency has purchased a considerable amount of time, which is just for them. They do not have access to any other source. A firm would have to state what it wanted and then decide whether it is capable of doing it.

Senator Plamondon: Would the Canadian government have the right to decide, or is that decision left to the owner? This would be the first time we have had private ownership of RADARSAT.

Senator Peterson: Honourable senators, I would have to get that information. I cannot answer that question.

On motion of Senator LeBreton, for Senator Di Nino, debate adjourned.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

MOTION TO AUTHORIZE COMMITTEE TO STUDY PARKS CANADA HISTORIC SITES— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Grafstein:

That the Standing Senate Committee on Social Affairs, Science and Technology study the following and report to the Senate within three months after the adoption of this motion:

- The designation by the Historic Sites and Monuments Board of Canada of the Montreal residence of Louis Hippolyte Lafontaine, Prime Minister of United Canada from 1841-42 and 1848-51, located on Overdale Street as a National Historic Monument to be purchased and managed by Parks Canada;
- 2. The creation of an Interpretation Centre at this Lafontaine residence for the purpose of promoting knowledge about the development of Responsible Government in Canada including the part played by Robert Baldwin, co-Prime Minister and Attorney General of Upper Canada, Joseph Howe from Nova Scotia, Charles Fisher from New Brunswick, and Lord Elgin, then Governor General of United Canada;
- 3. The role of Parks Canada in establishing a network of historic sites across the country to promote an understanding of our parliamentary democracy and the contributions made to this end by various Prime Ministers throughout our history.—(Honourable Senator Cools)

Hon. Wilfred P. Moore: Honourable senators, this matter stands in the name of Senator Cools. I have spoken with the honourable senator and she has agreed to yield the floor to me so that I may speak today. I would ask that following my remarks the adjournment stand in her name.

Honourable senators, I rise today to add my support to Senator Joyal's motion of June 29, 2005, calling for the establishment of a historic site of the residence of Louis-Hippolyte Lafontaine in Montreal. This historic site will be dedicated to promoting knowledge of the fight for responsible government in Canada and also the part played in achieving this by Robert Baldwin, Joseph Howe, Charles Fisher and Lord Elgin. This story represents the

seminal point in the history of our country and the Commonwealth, and it is a noble goal to make our citizens more knowledgeable of that struggle.

It is lamented by many in Canada that the historical knowledge of our society of the great events that have made us who we are are little known and celebrated less. Should we expect our citizens to know every date and event of importance in our history? Perhaps not, but we should make every effort possible to remind people of how we arrived here and where we are going. There is no better method of looking into the future than knowing the past. If we do not know where we have been, we cannot know where we are going.

I digress a bit, but I am truly pleased to speak today about our struggle for responsible government, a struggle that some might say continues.

• (1510)

I would like to speak to the second part of the motion with reference to the contributions made by individuals in the fight for responsible government, specifically those contributions made by a son of my province, Joseph Howe. I am humbled to work in the same office that was once occupied by this upstanding Canadian and great Nova Scotian.

Born on the Northwest Arm of Halifax in 1804, Joseph Howe spent his formative years in a one-and-a-half storey cabin. It is somewhat the measure of the man that he died in 1873 in Barrington House, after being named Lieutenant-Governor of Nova Scotia.

Howe's parents were John and Mary Edes Howe. His father was a United Empire Loyalist who emigrated to Nova Scotia in 1780. John Howe would have a tremendous influence on his son, imparting his steadfast belief in the British Empire. For most of his life, the son would spread this word, believing the future of Nova Scotia depended on her relations with Great Britain.

With little money available through his childhood, Joseph Howe largely was a self-educated man, reading whatever and wherever possible. Later in life, Howe would be a great promoter of universal education, believing that every child in Nova Scotia should have the opportunity to learn to read and write, to have access to books, and that every adult who did not have that chance should be afforded the same.

In 1827, Howe became sole proprietor of the newspaper the *Novascotian* and thus began his scrutiny of the local government in Halifax. Over the next several years, he came to learn of the corruption that existed there. Disillusionment with the local magistrates came readily to Howe, especially after participation in some of the grand juries, which oversaw some actions take by the local magistrates.

Colonial governments of Howe's day consisted of the governor and his council, who were appointed by Royal Authority. The governor of Nova Scotia would have been in constant contact with the minister responsible for the colonies in Great Britain, and it was the governor who made sure these policies were carried out. The governor was responsible for executing colonial laws,

administering justice and appointing most administrative and judicial officers. Governors were commanders-in-chief. They were in charge of the defence of the colony and foreign relations. They were considered a branch of the legislature and possessed a veto power over all laws. Their power was exclusive power to grant lands to citizens of the colony.

The colonial council of the colony served as both the Privy Council of today as well as the House of Lords. The chief duty of the council was to counterbalance a legislative assembly, as well as serve as a superior court in some colonies. The Legislative Assembly in Nova Scotia would have been elected from local constituencies, but the power of these assemblies was severely limited by the executive powers above them.

In Nova Scotia, as in most colonies of the Empire, the county would have been the central unit of central government administered by county courts, which were composed of justices of the peace appointed by the governor. One could easily comprehend the stranglehold on power that was possessed by the governor. There was also the further development of local cliques that he appointed that controlled local affairs.

It was in this world that Joseph Howe began to agitate for reform. The first manifestation of this came in 1835 through the *Novascotian*. Newspapers of the day were one of the main vehicles for calling for government reform. However, publishers needed to exercise great caution in doing so.

One must remember that a contemporary of Howe in Niagara, Bartemas Ferguson, publisher of the *Spectator*, was charged with seditious libel for his criticism of the government of Upper Canada. Sentenced to 18 months in jail, fined 50 pounds and ordered to stand in the pillory for one hour each day, it is not hard to see why Ferguson refrained from criticism in the future, but also how the government managed to keep the press in check.

On January 1, 1835 the readers of the *Novascotian* read a letter addressed to Joseph Howe and signed "The People," which accused the local government in Halifax of extorting more than £30,000 from the people of the city over the past years. Use of these letters to the publishers of newspapers were a common tool of criticism of the day, and it was recognized by all that they represented the views of the publisher. Thus, Howe was swiftly charged with seditious libel, and his trial was set for March 2, 1835.

Howe was informed by lawyers that the truth was actually not considered a defence against libel and that his case was a lost cause. In the interim, Mr. Howe read all he could from the law books of the day and attempted to construct a defence. He confessed after the trial to remembering only the first two paragraphs of his speech.

The trial was held in the library of the House of Assembly of Nova Scotia in Halifax. The presiding judge was Chief Justice Brenton Halliburton, an appointment that Howe had criticized as well. The outlook was not bright. The prosecution called one witness to establish Howe's guilt. Howe called none and left his defence to his summation speech before the jury.

Howe spoke for six-and-one-half hours. He spoke of the dangers of the concentration of power in the hands of the few and the urgency of a free press. I quote:

Will you permit the sacred fire of liberty brought by your fathers from the venerable temples of Britain to be quenched and trodden out on the simple altars they have raised? Your verdict will be the most important in its consequences ever delivered before this tribunal; and I conjure you to judge me by the principles of English law, and to leave an unshackled press as a legacy to your children.... Yes, gentlemen come what will, while I live, Nova Scotia will have the blessing of an open and unshackled press.

Ten minutes later, Howe was acquitted, and as John Ralston Saul has written, "His six hour defence and subsequent acquittal is a defining moment in the arrival of freedom of speech in Canada."

Howe would have much more to say in the future, and this would be in the guise of a politician, his second but perhaps most important career.

In the general election of 1836, against advice from many of his confidants, Mr. Howe ran for the County of Halifax and was elected its representative in the Assembly of Nova Scotia. His platform was straightforward, "...all we ask for is what exists at home — a system of responsibility to the people."

In 1837, Howe introduced his 12 resolutions towards responsible government, demanding much more power for the elected representatives, and thus a check on the executive powers. It is apparent Howe felt that a small colony such as Nova Scotia did not need the exact powers of Great Britain. It must also be kept in mind that Howe believed strongly in the Empire, and he would be loathe to detract from its powers.

However, an unforeseen event occurred which would force Howe's hand in this matter. In the wake of the rebellions of Upper and Lower Canada, Lord Durham released his report advising on what was needed to ease the tensions. The conclusion, as we all know, was responsible government. In a series of letters to the colonial secretary of the day, Lord John Russell, who objected to the report, Howe accepted totally the Durham report and demanded its recommendations be adopted. He stated, "All suspicion of disloyalty we cast aside, as the product of ignorance or cupidity; we seek for nothing more than British subjects are entitled to, and settle for nothing less."

Howe's objections to the status quo in Nova Scotia became more refined and resulted in the strongest statement yet against the executive, the demand for the recall of the Lieutenant-Governor. This resulted in Howe forming a coalition with the Tories in the executive council, one which would last until 1843, with Howe resigning over a disagreement about appointments.

So it was that Howe found himself back at the *Novascotian* where from 1844 to 1847 he would work to stoke the flames for reform and explain the issues in black and white to the people of Nova Scotia.

Thus, due to his efforts, the election of 1847 became an election fought over the issue of responsible government in which the Reformers won a majority, resulting in the end of the Tory hold on the executive, and the first responsible government in the British Empire. Howe was later to say it was achieved without a "blow struck or a pane of glass broken."

In any case, Howe had achieved his goal of reform and reform within the British Empire. His contribution to responsible government in Canada begins in 1835 with his successful defence at the hands of the ruling power, and it ends with his control of the executive in 1848. It is to Howe's credit that he achieved responsible government in this country without bloodshed, and brought an end to autocracy in British North America. Canada owes Joseph Howe a great deal of gratitude for helping to pave the way.

• (1520)

I would be remiss if I did not inform my fellow colleagues of some of the frustrations I have encountered in my recent attempts to provide knowledge of our country's heritage to the people of Nova Scotia.

There lives in Halifax a gentleman by the name of Michael Bawtree who founded the Joseph Howe Initiative to celebrate the 200th anniversary of Howe's birth and his historic accomplishments. During all of 2004 and since, Mr. Bawtree has tirelessly worked, often in period costume, to promote all things Joseph Howe, including the launch of two books. The launch took place in Barrington House, which, as I mentioned earlier, is the residence of the Lieutenant-Governor of Nova Scotia.

Mr. Bawtree has travelled to schools teaching students of the great place Joseph Howe has in the history of my province and our country. Mr. Bawtree is doing in Halifax exactly what the Lafontaine Centre proposed by Senator Joyal would do in Montreal: The promotion of Canada, our history, the great events of the past, and the great men and women who built this country.

However, when I approached the Department of Canadian Heritage to inquire as to what funding might exist to maintain this wonderful initiative, I was informed: "The Department of Canadian Heritage does not have any programs that would provide support for this type of initiative." I was seeking a paltry \$15,000 for the Joseph Howe Initiative. Honourable senators, I am very concerned as to why the Department of Canadian Heritage would have no programs which could provide funding for an initiative which is promoting the history of our country. I am sure you share my concern and my puzzlement. It is important to place this concern on the record here in this chamber, where I know Canada's history is not taken lightly.

It is with this recent experience in mind that I lend my wholehearted support to Senator Joyal and his endeavour. The history of Canada is a vibrant one, the result of which has been to create a nation which we know is an example to all. It is only fitting that we commemorate those who have worked to make Canada the great nation that it is, and this is a tremendous

step that we can take in honouring the lives and the efforts of Louis-Hippolyte Lafontaine, Robert Baldwin, Charles Fisher, Lord Elgin and Joseph Howe.

I wish to close by quoting Joseph Howe, who said:

A wise nation preserves its records, gathers up its muniments, decorates the tombs of its illustrious dead, repairs its great public structures, and fosters national pride and love of country by perpetual reference to the sacrifices and glories of the past.

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have a comment, but it could be a question. Let me make it a question.

The Hon. the Speaker: Just to keep our business in order, Senator Moore's time has expired. I know that Senator Rompkey wishes to ask a question, and I know that Senator LeBreton wishes to adjourn the debate. I leave it to Senator Moore as to what happens as to the first matter.

Senator Moore: Honourable senators, I was able to speak today through the courtesy extended by Senator Cools. I asked at the beginning that the adjournment be returned to her. I thought the house had agreed.

The Hon. the Speaker: Just to clarify, Senator Rompkey would like to ask you a question, Senator Moore. For him to do that, you would have to ask for additional time, and you would also have to agree to take the question.

Senator Moore: I am requesting additional time, honourable senators, and I would agree to attempt to answer Senator Rompkey's question.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Rompkey: Honourable senators, I am wondering if Senator Moore knew that Joseph Howe gave his last speech outside of a Rompkey house in West Dublin, Nova Scotia, just to keep the historical record complete.

On motion of Senator LeBreton, for Senator Cools, debate adjourned.

[Translation]

OFFICIAL LANGUAGES

MOTION TO AUTHORIZE COMMITTEE TO STUDY EFFECT OF RELOCATING FEDERAL DEPARTMENTS—DEBATE ADJOURNED

Hon. Claudette Tardif, pursuant to notice of July 6, 2005, moved:

That the Standing Senate Committee on Official Languages study and report its recommendations to the Senate on the following no later than June 15, 2006:

- The relocation of federal department head offices from bilingual to unilingual regions and its effect on the employees' ability to work in the official language of their choice;
- 2) The measures that can be taken to prevent such relocations from adversely affecting the application of Part V of the Official Languages Act in these offices, and the relocated employees' ability to work in the official language of their choice.

She said: Honourable senators, the motion I am submitting for your examination today is another opportunity for the Senate to contribute to strengthening bilingualism within the federal public service.

Its specific intent is to prevent the relocation of federal department head offices from adversely affecting the relocated employees' ability to work in the official language of their choice.

[English]

This motion is another occasion for the Senate to facilitate the relocation of government offices and to ensure that it is done in a manner that is respectful of the law and of federal employees' workplace rights, which are protected by Part V of the Official Languages Act. The aim of this motion is to ensure that the federal government does not have to intervene by way of decree when it is relocating its institutions to undesignated regions for workplace language purposes, and to establish clear policies and guidelines for the federal government to follow in the event of any other move of its offices to undesignated regions.

• (1530)

I fully support the government's effort to decentralize its offices so that more communities may take advantage of the economic benefits and of the federal government's increased presence in the regions. However, such a move must be done according to clear government guidelines to ensure a smooth transition for the federal employees who decide to relocate. We must facilitate the process by ensuring that the federal government is not infringing on its employees' rights and its own regulations.

[Translation]

Honourable senators, my purpose in presenting this motion is mainly related to the negative impact on the language of work arising out of the relocation of the Canadian Tourism Commission. Its relocation from Ottawa to Vancouver is to be completed by the end of 2005 and will be increasing operational productivity as well as stepping up the federal presence in Western Canada.

This is an excellent initiative and one I wholly subscribe to. I am in favour of institutions providing services to the public being located outside Ottawa. There are numerous advantages to this decentralization to the regions, as Senator Downe's inquiry of February 2, 2005 clearly showed.

After Senator Downe's presentation, our colleagues Senators Robichaud, Ringuette, Chaput and Mitchell made eloquent speeches extolling the benefits of a federal presence in other communities across the country.

[English]

In a country that is as geographically expansive as ours, the decentralization of government operations can have many advantages. It increases the number of federal employees outside the National Capital Region and increases the government's presence in economically sensitive communities. The Canadian Tourism Commission's move to Vancouver increases the federal government's presence in the Western provinces and provides the possibility of increased employment opportunities for graduates from our French-as-a-second-language programs and francophone schools.

[Translation]

This initiative would increase the federal government's presence in certain communities, especially ones with weak economies and high unemployment rates. Moreover, from the perspective of Part VII of the Act, moving the Canadian Tourism Commission to British Columbia could be a good opportunity for the government to assist the development of the francophone community in British Columbia, to enhance linguistic duality and to promote the French fact in British Columbia. This would also create more jobs for graduates with knowledge of both official languages.

Relocating the Department of Veterans Affairs to Charlottetown in 1976 is a good example that illustrates what such an initiative can bring to a region. In addition to the economic aspect, Senator Downe mentioned the linguistic aspect to illustrate the impact such moves can have. According to him, one of the effects of moving Veterans Affairs to Charlottetown was a remarkable increase in the use of French.

This move, which occurred before the new Official Languages Act was passed in 1988, combined with other factors, had a positive impact on the francophone community by giving it greater cohesion. In this case, moving Veterans Affairs helped stimulate the vitality of francophone communities and create more jobs for young francophones and francophiles on Prince Edward Island. Minority francophone communities like nothing more than to be supported by our efforts to develop and promote our linguistic duality. I recently had the privilege of traveling to Nova Scotia with my colleagues from the Standing Senate Committee on Official Languages. This trip showed us just how much this Acadian and francophone community, like all francophone communities in Canada, needs support to develop and flourish.

The federal government and its institutions play a key role in reinforcing the vitality and development of francophone communities. However, we must ensure that there are no negative consequences on the ability of relocated public servants to work in the official language of their choice. The relocation of the Canadian Tourism Commission from Ottawa to Vancouver, in other words from a region designated as bilingual for language-of-work purposes, to a non-bilingual region, is an example of the collateral effects that such an initiative may have on the working conditions of public servants. A number of official voices, including that of the Official Languages Commissioner, have stated that, if no permanent measures are taken, the guaranteed right under the Official Languages Act of francophone employees to work in the language of their choice may be compromised.

[English]

The relocation of the Canadian Tourism Commission from Ottawa, a designated region for language-of-work purposes, to Vancouver, a non-designated region, provides a good example of the unforeseen consequences such a move can have on federal employees' working conditions.

Part V of the Official Languages Act recognizes federal employees' right to work in the official language of their choice in certain designated areas. All designated areas are in New Brunswick, Quebec and Ontario. I note that there are none west of Ontario or east of New Brunswick.

Senator Ringuette: Shame!

[Translation]

These regions were designated following the adoption of the Parliamentary Resolution on Official Languages in the Public Service. This measure, which followed on the heels of the Official Languages Act of 1969, confirmed the right of federal employees in specific situations to work in the official language of their choice. In accordance with the legislation, the federal government had to ensure that federal employees working in such regions benefited from conditions conducive to the use of French or English.

Because Vancouver is not a bilingual location for the purposes of work, the francophone employees of the Canadian Tourism Commission, who elect to relocate will no longer benefit from all the tools they need to work in their first official language. They will be forced to give up this right, which they enjoyed in Ottawa for a number of years. Anglophone employees who want to practice their second official language in order to improve their language skills will also suffer the ill effects of this situation.

If nothing is done, the federal government and federal institutions, which may relocate to non-bilingual regions, may lose the linguistic skills of existing employees because the latter will no longer be able to work in their second language.

David Emerson, the minister responsible for this Crown corporation, made sure the provision of the Official Languages Act on providing the public with services in French and English would be respected by the Canadian Tourism Commission. Part IV of the act guarantees the public the right to communicate with the head office of a federal institution in the official language of their choice. Paradoxically, even if the employee's position is still designated bilingual, the only time francophones at Canadian Tourism Commission will use their language at work will be in serving the public. Would it not be frustrating to lose your right, overnight, to use your language during meetings and to no longer be able to receive and write internal documentation and material in the language of your choice? Would it not be frustrating to no longer have access to computer programs in the language of your choice? It is difficult enough to relocate and adapt your life. It is even more difficult to conduct your professional life when your rights have been taken away.

• (1540)

Suggestions have been made to correct this situation, which certainly does not encourage employees to agree to go to their new assignment.

On June 27, the Treasury Board approved an implementation principle that temporarily protects employees' language-of-work rights when a head office moves from a bilingual region to a unilingual region.

This begs the question: Would it not be better to avoid the need to issue an order every time a federal institution is relocated? The federal government has shown its desire to decentralize more of its activities. It is likely that other decentralizations will follow that of the Canadian Tourism Commission. In July, after the decision on the tourism commission, 120 jobs at the CanMet lab at the Department of Natural Resources were moved from Ottawa to Hamilton.

What is more, there are persistent rumours that 400 translators at Public Works and Government Services in Gatineau are going to be moved to New Brunswick. In the context of increased relocation of federal government activities to the regions, I think it would be important to examine the matter carefully in order to find lasting solutions.

[English]

Since the federal government has indicated that it may consider further relocations of federal institutions, let us ensure that all further decentralizing activities are done according to the federal government's laws and regulations. Let us ensure that it is done in a quick and efficient manner, while still respecting federal employees' rights.

Is not the protection of regions and of minorities one of the roles of the Senate? Let us be proactive and equip the federal government with long-term solutions that will make all future relocations efficient and law abiding.

[Translation]

What solutions? How to go about it? There could be a regulation, an amendment added on to the Official Languages Act, or some other approach defined by the Standing Senate Committee on Official Languages.

[English]

The Official Languages Committee could also study the feasibility of new designated regions for language-of-work purposes in order to spread more evenly throughout the country the advantages that come with the re-localization of federal offices.

[Translation]

My hope in introducing this motion is to make it possible for the Standing Senate Committee on Official Languages to address this matter and come up with some suggestions for the government.

In my humble opinion, an opinion shared, moreover, by a number of my colleagues, reflecting on this matter and collecting some informed opinions is the best way to help maintain the obligations set out in Part V of the Official Languages Act and to consolidate the guarantee federal public servants have of working in the official language of their choice.

The intention behind the decision-makers' choice to decentralize is a laudable one. It is, however, possible that there may be some unexpected outcomes that cannot be overcome without some corrective or accompanying measures.

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Honourable senator Tardif, your speaking time is up. Do you wish to ask for more time?

Senator Tardif: I would like two more minutes.

Hon. Senators: Agreed.

Senator Tardif: Decentralizing public services has an important role to play in bringing the federal administration closer to people, but must not represent a burden to those responsible for delivering services. It must have little or no impact on employees' working conditions.

Between 1974 and 2005, the number of bilingual public service positions rose from 21 per cent to 39 per cent. If public service bilingualism has made major advances today, and if we have a public service increasingly attuned to the existence of both official languages, this is in large part the result of increasingly scrupulous application of the Official Languages Act. If we want to continue to have a public service that is even more representative of our linguistic duality, we must be even more vigilant or the progress made so far will be lost.

As a protector of minorities, the Senate must have a say on bilingualism within the public service, particularly where language of work is concerned, as we have in the past on a number of other issues contributing to creating a Canada where diversity is not an obstacle. It is therefore incumbent upon the Senate to examine this thoroughly.

I therefore propose that the motion be referred to the Standing Senate Committee on Official Languages and that the committee report to the Senate no later than June 15, 2006.

On motion of Senator Segal, debate adjourned

[English]

STUDY ON STATE OF HEALTH CARE SYSTEM

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT

Hon. Michael Kirby, pursuant to notice of October 19, 2005, moved:

That notwithstanding the Order of the Senate adopted on Thursday, October 7, 2004, the Standing Senate Committee on Social Affairs, Science and Technology, which was authorized to examine and report on issues arising from, and development since, the tabling of its final report on the state of the health care system in Canada in October 2002

(mental health and mental illness), be empowered to present its final report no later than June 30, 2006, and that the Committee retain all powers necessary to publicize the findings of the Committee contained in the final report until October 31, 2006; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

He said: Honourable senators, I would like to make a one-minute explanation for the motion. The order granting the Standing Senate Committee on Social Affairs, Science and Technology authority to study mental health expires at the end of the calendar year. The committee is running slightly behind our original forecast to table our report by the end of November or early December. It now appears that the report will be ready to table on January 19. That is simply a function of the translation and printing problems associated with the production of a very long report.

The purpose of the order is to do two things: to extend the committee's mandate to finish the study; and, second, to table the report in January as soon as it is ready, even though the Senate will not then be sitting.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators to adopt the motion?

Motion agreed to.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, October 25, 2005, at 2 p.m.

The Hon. the Acting Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, October 25, 2005, at 2 p.m.

THE SENATE OF CANADA PROGRESS OF LEGISLATION

(indicates the status of a bill by showing the date on which each stage has been completed)

(1st Session, 38th Parliament)

Thursday, October 20, 2005

(*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)

GOVERNMENT BILLS

(SENATE)

				(SENAIE)					
No.	Title	180	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-10	A second Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	04/10/19	04/10/26	Legal and Constitutional Affairs	04/11/25	0 observations	04/12/02	04/12/15	25/04
S-17	An Act to implement an agreement, conventions and protocols concluded between Canada and Gabon, Ireland, Armenia, Oman and Azerbaijan for the avoidance of double taxation and the prevention of fiscal evasion	04/10/28	04/11/17	Banking, Trade and Commerce	04/11/25	0	04/12/08	05/03/23*	8/05
S-18	An Act to amend the Statistics Act	04/11/02	05/02/02	Social Affairs, Science and Technology	05/03/07	0	05/04/20	05/06/29*	31/05
S-31	An Act to authorize the construction and maintenance of a bridge over the St. Lawrence River and a bridge over the Beauharnois Canal for the purpose of completing Highway 30	05/05/12	05/06/07	Transport and Communications	05/06/16	0	05/06/21		
S-33	An Act to amend the Aeronautics Act and to make consequential amendments to other Acts	05/05/16	Bill withdrawn pursuant to Speaker's Ruling 05/06/14						
S-36	An Act to amend the Export and Import of Rough Diamonds Act	05/05/19	60/90/50	Energy, the Environment and Natural Resources	05/06/16	0	05/06/20		
S-37	An Act to amend the Criminal Code and the Cultural Property Export and Import Act	05/05/19	05/06/15	Foreign Affairs	05/06/29	0	05/07/18		
S-38	An Act respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign countries	05/05/31	05/06/15	Agriculture and Forestry	05/06/23	m	05/07/18	1	1
S-39	An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act	05/06/07	05/06/15	Legal and Constitutional Affairs					
S-40	An Act to amend the Hazardous Materials Information Review Act	60/90/50	02/06/30	Social Affairs, Science and Technology	05/09/29	0	05/10/20		

GOVERNMENT BILLS (HOUSE OF COMMONS)

R.A. 19 05/07/20* 22 05/02/24* 22 05/02/24* [21 05/03/23* [16 05/04/21* 1/14 05/05/13* 5/19 05/05/13*				(HOL)	(HOUSE OF COMMONS)					
An Act to amend the Criminal Code (6)06/14 05/06/20 Legal and Constitutional 05/07/18 observations persons and the Criminal Code (6)06/14 05/06/20 Legal and Constitutional 05/07/18 observations persons and the Criminal Code (6)06/14 Criminal Crim	1	diiT	st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
An Act to amend the Camada Shipping Act and the Prinancial of Special Rate of Lose Special Rate of Constitutional to Camada Shipping Act and the Prinancial Finance of Westport and the Camada Shipping Act 2007 04/12/09	C-2	An Act to amend the Criminal Code (protection of children and other vulnerable parents) and the Canada Evidence Act	05/06/14	05/06/20	Legal and Constitutional Affairs	05/07/18	0 observations	05/07/19	05/07/20*	32/05
An Act to implement the Convention on O4/1/16 O4/12/09 Transport and the Protocol to the Convention on O4/11/16 O4/12/09 Communications and the Protocol to the Convention on O4/12/07 O4/12/09 Communications date to the Convention on Matters Specific to Alcraft Equipment An Act to provide financial assistance for O4/12/07 O4/12/07 O4/12/09 Energy the Environment O5/02/12 O 05/03/21 05/03/21 O 0	C-3	An Act to amend the Canada Shipping Act, the Canada Shipping Act, 2001, the Canada National Marine Conservation Areas Act and the Oceans Act	05/03/21	05/04/14	Transport and Communications	60/90/50	0 observations	05/06/22	05/06/23*	29/05
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	An Act to give effect to a land claims and self-government agreement among the Tlicho, the Government of the Northwest Territories and the Government of Canada, to make related amendments to the Mackenzie Valley Resource Management Act and to make consequential amendments to other Acts	An Act to amend the Migratory Birds Convention Act, 1994 and the Canadian Environmental Protection Act, 1999	An Act to amend the Telefilm Canada Act and another Act	An Act to provide for real property taxation powers of first nations, to create a First Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority and First Nations Statistical Institute and to make consequential amendments to other Acts	An Act to establish the Department of Social Development and to amend and repeal certain related Acts	An Act to establish the Department of Human Resources and Skills Development and to amend and repeal certain related Acts	An Act to amend the Federal-Provincial Fiscal Arrangements Act and to make consequential amendments to other Acts (fiscal equalization payments to the provinces and funding to the territories)	An Act governing the operation of remote sensing space systems	An Act to establish the Canada Border Services Agency	An Act to amend the Food and Drugs Act	An Act to amend the Patent Act	An Act to amend the Parliament of Canada Act and the Salaries Act and to make consequential amendments to other Acts	A second Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 2, 2004-2005)
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Titla	ler Majesty certain public service of cial year ending priation Act No. 3,	change the boundaries of the athurst and Miramichi electoral	respecting certain aspects of legal	t An g for	An Act to amend the Canada Grain Act and the Canada Transportation Act	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 4,	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2006 (Appropriation Act No. 1, 2005, 2005)	An Act to implement certain provisions of the budget tabled in Parliament on February 23,	An Act to provide services, assistance and compensation to or in respect of Canadian Forces members and veterans and to make amendments to certain Acts	An Act to authorize the Minister of Finance to make certain payments	An Act to amend the Criminal Code (trafficking in persons)	An Act to give effect to the Labrador Inuit Land Claims Agreement and the Labrador Inuit Tax Treatment Agreement	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2,
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No.	Title	10	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-259	An Act to amend the Excise Tax Act (elimination of excise tax on jewellery)	05/06/16							
C-302	An Act to change the name of the electoral district of Kitchener—Wilmot—Wellesley—Woolwich	04/12/02	04/12/07	Legal and Constitutional Affairs	05/02/17	0 observations	05/02/22	05/02/24*	4/05
C-304	An Act to change the name of the electoral district of Battle River	04/12/02	04/12/07	Legal and Constitutional Affairs	05/02/17	0 observations	05/02/22	05/02/24*	5/05
			SEN	SENATE PUBLIC BILLS					
No.	Title	1st	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to amend the Citizenship Act (Sen. Kinsella)	04/10/06	04/10/20	Social Affairs, Science and Technology	04/10/28	0	04/11/02	05/05/05*	17/05
S-3	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/10/06	04/10/07	Official Languages	04/10/21	0	04/10/26		
4-8	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/10/06	Dropped from Order Paper pursuant to Rule 27(3) 05/02/22						
က်	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	04/10/07	04/10/26	Transport and Communications (withdrawn) 04/10/28 Legal and Constitutional Affairs					
S-6	An Act to amend the Canada Transportation Act (running rights for carriage of grain) (Sen. Banks)	04/10/07							
S-7	An Act to amend the Supreme Court Act (references by Governor in Council) (Sen. Cools)	04/10/07	Dropped from Order Paper pursuant to Rule 27(3) 05/02/22						
φ φ	An Act to amend the Judges Act (Sen. Cools)	04/10/07	Dropped from Order Paper pursuant to Rule 27(3) 05/06/16						
ත- ග	An Act to amend the Copyright Act (Sen. Day)	04/10/07	04/10/20	Social Affairs, Science and Technology					
S-11	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/10/19	04/10/26	Legal and Constitutional Affairs	05/04/12	2 observations	05/05/17		

2	Title	1st	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-12	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/10/19	05/06/01	Energy, the Environment and Natural Resources	05/06/29	0			
S-13	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act Canada (Sen Oliver)	04/10/19	04/11/17	Legal and Constitutional Affairs					
S-14	An Act to protect heritage lighthouses (Sen. Forrestall)	04/10/20	04/11/02	Social Affairs, Science and Technology	05/03/21	0	05/03/23		
S-15	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/10/20		Subject matter 05/02/10 Transport and Communications			σ		
S-16	An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.)	04/10/27		Subject matter 05/02/22 Aboriginal Peoples			Control		
S-19	An Act to amend the Criminal Code (criminal interest rate)	04/11/04	04/12/07	Banking, Trade and Commerce	05/06/23	-	05/06/28		
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/11/30		Subject matter 05/02/02 Legal and Constitutional Affairs	1	1		1	!
S-21	An Act to amend the criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	04/12/02	05/03/10	Legal and Constitutional Affairs					
S-22	An Act to amend the Canada Elections Act (mandatory voting) (Sen. Harb)	04/12/09	Dropped from Order Paper pursuant to Rule 27(3) 05/10/18						
S-23	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	05/02/01		Subject matter 05/07/18 Legal and Constitutional Affairs					
S-24	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	05/02/03	05/03/10	Legal and Constitutional Affairs			,		
S-26	An Act to provide for a national cancer strategy (Sen. Forrestall)	05/02/16	05/06/01	Social Affairs, Science and Technology					
S-28	An Act to amend the Bankruptcy and Insolvency Act (student loan) (Sen. Moore)	05/03/23	05/06/01	Banking, Trade and Commerce					
S-29		02/02/02	05/06/01	Social Affairs, Science and Technology					
S-30		05/05/10							
S-32	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	05/05/12							

1	line	_	7	Committee	Report	Amend	3.0	R.A.	Chap.
S-34	An Act to amend the Department of Justice Act and the Supreme Court Act to remove certain doubts with respect to the constitutional role of the Attorney General of Canada and to clarify the constitutional relationship between the Attorney General of Canada and Parliament (Sen. Cools)	05/05/16							
S-35	An Act to amend the State Immunity Act and the Criminal Code (terrorist activity) (Sen. Tkachuk)	05/05/18							
S-41	An Act to amend the Department of Foreign Affairs and International Trade Act (human rights reports) (Sen. Kinsella)	05/06/21							
S-42	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	05/07/20							
S-43	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	05/09/28							
S-44	An Act to amend the Public Service Employment Act (Sen. Ringuette)	05/09/28							

	Title	1st	2nd	Committee	Report	Report Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of The General Synod of the Anglican Church of Canada (Sen. Rompkey, P.C.)	05/02/10	05/02/10 05/03/23	Banking, Trade and Commerce	90/90/90	0 observations	05/05/10	05/05/10 05/05/19*	
S-27	An Act respecting Scouts Canada (Sen. Di Nino)	05/02/17	05/02/17 05/04/19	Legal and Constitutional Affairs					

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OFFICIAL REPORT (HANSARD)

Tuesday, October 25, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

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(Daily index of proceedings appears at back of this issue).

THE SENATE

Tuesday, October 25, 2005

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

INTERNATIONAL MEETING OF MINISTERS OF HEALTH ON PANDEMIC INFLUENZA

Hon. Jack Austin (Leader of the Government): Honourable senators, the Honourable Ujial Dosanjh, Minister of Health, along with the Honourable Carolyn Bennett, Minister of State (Public Health) and the Honourable Aileen Carroll, Minister of International Cooperation yesterday and today are the hosts at an international meeting of ministers of health to address pandemic influenza. Representatives of some 30 countries and five multinational organizations are meeting in Ottawa to discuss global collaboration and cooperation in light of the possibility of an influenza epidemic.

Later today, a communiqué is expected to outline priority areas for action through international cooperation. Four main themes are the subject of concern: the relation of avian flu to human and animal health; surveillance in developing countries; vaccine and anti-viral development and access; and risk communication and risk assessment.

Canada's initiatives in pandemic preparedness take into account U.S. proposals for a formal international partnership to increase global collaboration; World Health Organization work for a strategic plan for pandemic preparedness; the Food and Agricultural Organization strategy for control of avian influenza; World Health Organization plans for a donors meeting and a pledging conference later this year; and the Asia-Pacific Economic Cooperation, APEC, symposium on avian influenza. Also taken into account are European Union plans for a pandemic preparedness workshop; bilateral efforts by countries to build capacity in Southeast Asia; and the appointment of an expert panel to the director general of the World Health Organization.

Over the last few years, Canada has worked closely with the World Health Organization. The Public Health Agency of Canada has sent a mobile lab to Vietnam and provided epidemiologic/public health expertise to Thailand, Vietnam and China.

In the last budget, Bill C-43, Canada provided \$34 million over five years to assist with the development and testing of a prototype pandemic influenza vaccine. We have also contributed \$24 million toward the development of a national anti-viral stockpile for preventing and treating a newly emergent strain of avian influenza. To increase surveillance in Southeast Asia and China, the Canadian International Development Agency, CIDA, is funding a \$15 million project that will be delivered through the Public Health Agency of Canada.

Canada will continue to be a leader in meeting the challenge of an avian flu pandemic. The World Health Organization continues to acknowledge Canada's leadership and to support Canada's initiatives. Let us wish today's conference a total success in cooperation and coordination while keeping in mind that this conference is only one step to meet the challenges that may lie ahead of us.

UNITED NATIONS

SIXTIETH ANNIVERSARY

Hon. Consiglio Di Nino: Honourable senators, as we mark what is known around the world as United Nations Day, the UN's sixtieth anniversary, I rise to congratulate the many wise men of that day for creating a world body that has contributed to peace and stability in our world.

Born in the ashes of the League of Nations, which sought to correct its inefficiencies and reinvent itself as the Second World War raged on, the UN has aimed to become a body of peace and cooperation for all the peoples of the earth — and mostly, it has achieved its objective.

Unfortunately, I am not as confident of its future, for I fear it has become overly bureaucratic and often dysfunctional and that it is now burdened by too many competing forces within its membership.

There is no doubt we need an effective world body to ensure future peace, cooperation and stability — "effective" being the operative word. My hope is that serious reform of the UN and its agencies will continue to take place to avoid any more cases of abuse and misuse such as we have seen.

Colleagues, birthdays serve not only to mark time, but also as a time to pause and reflect on our actions, objectives and future plans. I urge the UN and all of its membership to do just that. The UN is an organization whose intended purpose was to offer a forum where nations could come together to help people live better lives by eliminating poverty and disease, and to put an end to the madness of war and to foster respect for each other's rights and freedoms. The UN needs to reassess its performance on all levels and, as the League of Nations did, admit that it must now embrace serious reform so it can better represent the world's nations and help them reach the honourable objectives of peace and cooperation.

Honourable senators, I am pleased to join others in wishing the UN a happy birthday and Godspeed in its reform. I urge Canada to take a strong leadership role in defining the UN of tomorrow.

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw to your attention the presence in the gallery of a delegation from Cameroon. We have Martin Mpana, Acting High Commissioner for the Republic of Cameroon in Canada, Mr. Ename Ename Samson, Secretary General of the National Assembly, the Honourable Matta Joseph Roland, Member, and Ahmadou Ndottiwa, Chief of Ceremonies and Missions.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

• (1410)

[English]

SMALL BUSINESS WEEK

Hon. Catherine S. Callbeck: Honourable senators, last week, during Small Business Week, I had the pleasure to attend the sixth annual Women in Business Symposium held in Mill River, Prince Edward Island. The conference was hosted by the P.E.I. Business Women's Association, one of the most influential business associations on the Island, in conjunction with the Atlantic Canada Opportunities Agency and the P.E.I. Business Development Initiative. This year's symposium, with more than 135 delegates, offered a variety of workshops, panel discussions, keynote speakers and more to assist new women entrepreneurs who are thinking of starting up a business and to expand the knowledge and skills of established women entrepreneurs on Prince Edward Island. The event was a real success.

During the conference, I had the opportunity to meet Ms. Melody Dover, an Island graphic designer who last week earned the Business Development Canada Young Entrepreneur Award for Prince Edward Island. I should like to offer my congratulations to Melody and to the other provincial and territorial winners of this distinguished award. These young Canadian business people are the future of business in this country.

Honourable senators, we all know the great impact that small and medium-sized businesses have on Canada's economy. Entrepreneurs and their successes are the key to this country's economic growth. It is only fitting that a week be set aside to recognize these entrepreneurs and their contributions, and to encourage and to assist others in making their business dreams come true. In recognition of Small Business Week, I should like to congratulate the entrepreneurs and the small-business owners across Canada whose hard work, determination and innovative thinking add so much to our national economy.

HALIFAX HUMANITIES 101

Hon. Terry M. Mercer: Honourable senators, last Monday, October 17, I attended the launch event in Halifax for Halifax Humanities 101, a Clemente Humanities Course. The Clemente course, founded by Earl Shorris in the United States, seeks to break the cycle of poverty through education. It has spread throughout the world. All Halifax universities donated their professors' teaching time, and donations were received from the

McLean Foundation, the McCain foundation, the Royal Bank of Canada Foundation, the Rotary Club of Halifax and individuals to support rooms, teaching materials, supplies and food. There was even daycare support for those who needed it.

Poverty is neither easy to live with nor to overcome. These students want a hand up not a handout. The goal of the Clemente Course is to provide instruction in history, art and culture but, most importantly, to open up peoples' minds to new ideas, themes and goals. Students in this course have gone from living in the street to teaching in schools, even becoming dentists, counsellors and nurses.

Honourable senators, St. George's Parish and the Reverend Canon Dr. Gary Thorne spoke with me last year to seek my advice on how to put this project in motion. The St. George's Church Friends of Clemente Society have worked tirelessly to turn this dream into reality. I commend them for their efforts and look forward to seeing firsthand the results of their work.

I have always believed that education is the one true path for eliminating poverty. This new course in Halifax is well on its way to accomplishing that for its participants.

[Translation]

TERRY FOX MARATHON OF HOPE

TWENTY-FIFTH ANNIVERSARY

Hon. Joseph A. Day: Honourable senators, this afternoon, I want to remind you of a very special anniversary that took place during our summer recess. I am talking about the twenty-fifth anniversary of the Terry Fox Marathon of Hope. Almost every day that I am in Ottawa, I pass by the monument dedicated to Terry Fox's life and vitality. It is located on the other side of the street, just opposite the Senate chamber.

I am always very proud to note that the artist who created this statue, John Hupper, hails from my home town of Hampton, New Brunswick. I am also extremely proud, as a Canadian, that Terry Fox chose to give us such an extraordinary gift in such a sincere and public manner: the gift of hope.

[English]

Terry Fox was born in Winnipeg, Manitoba, and raised in Port Coquitlam, British Columbia. An active teenager involved in many sports, Terry was only 18 when he was diagnosed with bone cancer and, in 1977, he was forced to have his leg amputated six inches above the knee. While in hospital, Terry was so overcome by the suffering of other cancer patients, many of them young children, he was driven to do something to help. He decided to run across Canada to raise money for cancer research. He would call his journey the Marathon of Hope.

Preparation took 18 months, during which he ran over 5,000 kilometres. On April 12, 1980, 21-year-old Terry Fox started his run in St. John's, Newfoundland, by dipping his artificial leg in the Atlantic Ocean. Although it was difficult to garner attention in the beginning, enthusiasm soon grew, and the

money collected along the route began to mount. He ran at least 42 kilometres per day, further than a marathon, through Canada's Atlantic provinces, Quebec and Ontario. It was a journey that Canadians never forgot. However, on September 1, 1980, after 143 days and 5,373 kilometres, Terry was forced to stop running outside Thunder Bay, Ontario because cancer had appeared in his lungs. An entire nation was stunned and saddened. Terry died on June 28, 1981, at the age of 22. This heroic Canadian was gone, but his legacy was just beginning. To date, more than \$360 million has been raised worldwide for cancer research in Terry's name through the annual Terry Fox Run held across Canada and around the world.

I am sure honourable senators will join me in thanking the hundreds of participants and volunteers who have helped to make the Terry Fox Run an overwhelming success again this year on its twenty-fifth anniversary.

THE LATE DAME CICELY SAUNDERS

Hon. Sharon Carstairs: Honourable senators, Dame Cicely Saunders, founder of the modern day hospice palliative care movement, died earlier this year in London at the age of 87. Dame Saunders was a British nurse and physician who founded St. Christopher's Hospice in 1967 in London, England.

While the concept of hospice care dates back to medieval times, there was no real effort to update its procedures for the terminally ill in the latter half of the 20th century. When Cicely Saunders founded St. Christopher's, she used the term "palliative medicine" to describe a method of treating terminally ill patients with dignity while easing their pain with drugs such as morphine. Her methods began to be adopted around the world. Dame Saunders taught and wrote extensively on palliative care around the world, impressing others with her passion for alleviating suffering.

In the early 1970s, Dr. Paul Henteleff and Dr. Balfour Mount, Canadian physicians who had visited and worked at St. Christopher's, decided to bring this model of end-of-life care to Canada. In 1974, the first palliative care unit was opened in Winnipeg at the St. Boniface General Hospital, followed one month later by the opening of a palliative care unit at the Royal Victoria Hospital in Montreal.

Earlier this month, on October 8, we celebrated World Hospice and Palliative Care Day — a new, unified day of action to celebrate and support hospice and palliative care around the world and to raise awareness and understanding of the need and importance of hospice and palliative care. Through activities such as this and the Hike for Hospice and National Hospice Palliative Care Week, Dame Saunders' voice will continue to be heard as we work to ensure that all Canadians and people around the world have access to the best quality end-of-life care.

ROUTINE PROCEEDINGS

THE ESTIMATES 2005-06

GOVERNMENT RESPONSE TO NATIONAL FINANCE COMMITTEE SECOND INTERIM REPORT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, pursuant to rule 131(3) of the Rules of the Senate, I have the honour to table two copies of the government response to the recommendations of the eleventh report of the Standing Senate Committee on National Finance.

• (1420)

[Translation]

GENOME CANADA

2004-05 ANNUAL REPORT TABLED

Hon. Bill Rompkey: Honourable senators, I have the honour to table the annual report of Genome Canada for 2004-05.

[English]

INDIAN CLAIMS COMMISSION

2003-04 ANNUAL REPORT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table two copies, in both official languages, of the Indian Claims Commission 2003-04 annual report.

TELECOMMUNICATIONS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-37, to amend the Telecommunications Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Tardif, bill placed on the Orders of the Day for second reading two days hence.

CANADIAN HUMAN RIGHTS ACT

BILL TO AMEND—FIRST READING

Hon. Noël A. Kinsella (Leader of the Opposition) presented Bill S-45, to amend the Canadian Human Rights Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Kinsella, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY ON BILINGUAL STATUS OF CITY OF OTTAWA

The Honourable Lise Bacon: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on Wednesday, April 13, 2005, the date for the presentation of the final report of the Standing Senate Committee on Legal and Constitutional Affairs on the petitions tabled during the Third Session of the Thirty-seventh Parliament, calling on the Senate to declare the City of Ottawa a bilingual city and to consider the merits of amending section 16 of the Constitution Act, 1867, be extended from October 27, 2005 to June 30, 2006.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY ON INCLUDING IN LEGISLATION NON-DEROGATION CLAUSES RELATING TO ABORIGINAL TREATY RIGHTS

The Honourable Lise Bacon: Honourable senators, I give notice that at the next sitting of the Senate I will move:

That, notwithstanding the Order of the Senate adopted on Wednesday, November 3, 2004, the date for the presentation of the final report of the Standing Senate Committee on Legal and Constitutional Affairs on the implications of including, in legislation, non-derogation clauses relating to existing aboriginal and treaty rights of the aboriginal peoples of Canada, under section 35 of the Constitution Act, 1982, be extended from October 31, 2005 to June 30, 2006.

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO TABLE REPORTS DURING ADJOURNMENT OF THE SENATE

Hon. Joseph A. Day: Honourable senators, I give notice, in the name of Honourable Senator Kenny, that, at the next sitting of the Senate, he will move:

That the Standing Senate Committee on National Security and Defence be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the chamber.

[English]

QUESTION PERIOD

THE SENATE

CONSTITUTION ACT, 1867— RIGHT OF SENATORS TO HOLD DUAL CITIZENSHIP

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, my question is directed to the Leader of the Government in the Senate. He will no doubt know that some questions have been raised in the media concerning the application of section 31(2) of the Constitution Act. In order to assist all senators, both current and those who might follow us, will the minister tell us whether he might be seeking legal advice from the law officer of the Crown? If so, would he be able to share that information?

Hon. Jack Austin (Leader of the Government): Honourable senators, I thank Senator Kinsella for raising this question and for doing so in a factual context.

As the honourable senator says, this issue was the subject of media articles yesterday, including an article that appeared in the Ottawa Citizen under the byline of Jack Aubry. Questions of a constitutional nature are usually quite complex, and when citizenship matters are added to the complexity, they may be somewhat more difficult for the general public to understand. This matter involves both constitutional questions and citizenship issues.

We all know the constitutional requirements for being summoned to the Senate in section 23 of the Constitution Act, 1867. They include being at least 30 years of age, being a resident of the province for which one is appointed, having property in that province of a value of at least \$4,000, and being a natural-born or naturalized subject of the Queen.

Section 23 does not require that a senator not be a natural-born or naturalized subject of any other country; it only requires that a senator be a natural-born or naturalized subject of the Queen. It makes no reference to dual citizenship.

Honourable senators are also aware of the provisions in sections 30 and 31 of having one's place in the Senate vacated. Section 31 provides that:

The Place of a Senator shall become vacant...

(2) If he takes an Oath or makes a Declaration or Acknowledgement of Allegiance, Obedience, or Adherence to a Foreign Power, or does an Act whereby he becomes a Subject or Citizen, or entitled to the Rights or Privileges of a Subject or Citizen, or a Foreign Power.

A plain reading of this provision indicates that in order for a senator's seat to be vacated the senator must take a future action — in particular, take an oath or make a declaration or do an act to obtain other citizenship.

The wording of subsection 31(2) does not make vacation of office contingent on an ongoing status held by a senator. Rather, the wording of subsection 31(2) makes vacation of office contingent on the doing of an act whereby the senator becomes a subject or citizen of a foreign power.

It is clear to me that if a senator already had dual citizenship prior to appointment as a senator, the senator's seat would not be vacated solely by reason that the senator had prior dual citizenship. Rather, my reading of the provision would be that the intent is to vacate the office only if a person becomes a subject or citizen of a foreign power after having been summoned to the Senate.

• (1430)

As honourable senators will know, the rules governing citizenship in other countries cover a broad range of possibilities. For example, children who are born in Canada to a parent who has citizenship with another country may be either eligible for citizenship or, under the laws of that foreign country, a citizen. In some cases, children born to a parent who has citizenship of another country may automatically become citizens of that other country.

I also understand that some countries have restrictions on the voluntary renunciation of citizenship. Thus, even if one chose to read subsection 31(2) inaccurately, as requiring the renunciation of foreign citizenship, this renunciation might be difficult to do in some cases.

There are a number of hypothetical issues that could arise because of prior citizenship. For example, if a senator who has dual citizenship receives a pension from a foreign country, which is a general benefit for its citizens and/or residents, does receiving that pension imply doing something to become "entitled to the Rights or Privileges of a Subject or Citizen, of a Foreign Power"? This could happen where, for instance, a young Canadian person served in the Armed Forces of another country, such as the United States.

This issue has been with us since Confederation. The application of the Constitution in this area has been the sensible one; namely, that prior holding of dual citizenship does not require vacation or renunciation of that dual citizenship.

While I am not aware of any honourable senator becoming a dual citizen after being summoned to the Senate, we are all aware of honourable senators who were summoned to the Senate with prior dual citizenship. There are 12 senators serving in the Chamber today who were not born in Canada.

I am not aware that any honourable senator is suggesting that this has in any way presented an issue for the conduct of business in this chamber.

I also note that because there are a growing number of persons in Canada who were born outside Canada, the matter of dual citizenship is likely to be an increasing feature of those summoned to the Senate in the future. This feature is a reflection of the diversity of Canada, which is one of our strengths as a nation. I believe that the Senate will continue to be enriched by the appointment of persons to the Senate who are summoned from the breadth of our country.

Honourable senators are aware that citizenship is not a criterion to claim the benefits of the Charter of Rights.

Finally, section 33 of the Constitution Act, 1867, provides that questions regarding the qualifications of senators and vacancies are to be "heard and determined by the Senate." As far as I know, no facts have been alleged against any senator that would bring section 33 into play.

The assertion in news stories seems to be that dual citizenship requires disqualification. This is not legally or constitutionally true. I very much regret a headline in the *Ottawa Citizen* yesterday: "Senators with dual citizenship break rules." That is simply not the case. I very much regret an editorial in today's *Calgary Herald* that starts, "Ignorance of the law is no excuse." I think the writers better examine their own understanding of the law.

I thank Senator Kinsella for the opportunity to make this statement.

Hon. Senators: Hear, hear!

HEALTH

FIRST MINISTERS CONFERENCE— BENCHMARKS FOR WAIT TIMES

Hon. Wilbert J. Keon: Honourable senators, my question for the Leader of the Government in the Senate concerns the outcome of a meeting held this weekend between the provincial and federal ministers of health regarding benchmarks for wait times.

As honourable senators know, I had the privilege of attending the portion of the meeting that related to mental health. I am unaware of the exact details of the agreements on benchmarks.

As far as I can tell, it was agreed to provide a first set of evidence-based benchmarks by the end of this year, meaning that they could provide a benchmark for only one type of treatment in each of five priority areas that were laid out in the health accord. This agreement seems to translate into defined wait times for five procedures or tests.

Could the Leader of the Government in the Senate tell us if there is any indication when this information will be translated into action? In other words, will this agreement be accompanied by an implementation plan when the benchmarks are defined?

Hon. Jack Austin (Leader of the Government): Honourable senators, I know from comments made by the Minister of Health, the Honourable Ujjal Dosanjh, that the meeting may progress with respect to establishing the scientific criteria to establish benchmarks. I understand that the provinces are not reluctant to move forward with their agreement as established by a first ministers' meeting on health last year to put benchmarks in place,

but they are concerned that benchmarks be established in an objective fashion based on science. There are a number of experts in the field, and we discussed the opinion of one expert last week who believed that some of the benchmarks in some of the health categories could be put in place before the end of the year.

Senator Keon: Honourable senators, a communiqué from the health ministers meeting does not indicate how many wait-time benchmarks will be included in the first set or when a full set is expected. Could the Leader of the Government in the Senate make inquiries in this regard? I fully appreciate that he cannot have this answer today, but would he make inquiries and tell us how long the federal government believes it will take until there is a full suite of wait-times benchmarked, and if there is now another target date for this achievement?

Senator Austin: I take it that Senator Keon is speaking about wait-times in the five priority areas that are being discussed. I will make inquiries and hope to have better information for the honourable senator.

CANADA-UNITED STATES RELATIONS

SOFTWOOD LUMBER AGREEMENT

Hon. Donald H. Oliver: Honourable senators, my question is to the Leader of the Government in the Senate and it deals with softwood lumber. The question has three separate parts.

First, when will the Prime Minister stand up for Canada with respect to the softwood lumber dispute in ways that will yield real results?

Second, when is Prime Minister Martin prepared to cultivate the kind of influence with our largest trading partner that former Prime Minister Brian Mulroney had?

Finally, could the leader please comment on the reported statement of Minister Jim Peterson in today's *National Post* that the government would like to find ways to link energy exports to the United States as a means to resolve the softwood lumber dispute?

Hon. Jack Austin (Leader of the Government): Honourable senators, the questions asked by the Honourable Senator Oliver are an entirely political representation. The assertions in the questions are inaccurate. The Prime Minister stands up for Canada like no Prime Minister in recent times has done.

Senator Oliver is not paying attention to public affairs or may have been out of the country because the Prime Minister has made it clear that he represents Canadian interests.

Some Hon. Senators: Oh, oh.

Senator Oliver: Another cheap shot.

Senator Austin: Even yesterday the Prime Minister said that it does not affect bilateral relations with the United States to stand up for Canada; that is his job.

I will not comment on the relationship between the former Prime Minister Mulroney and the United States because that simply invites comparisons that are not relevant today.

With respect to Mr. Peterson, he has not linked trade and energy to the softwood lumber industry issue.

• (1440)

Senator Oliver: That is precisely what the quote said, but I did not expect the leader to accept it.

My supplementary question is: When Prime Minister Martin appointed Frank McKenna from New Brunswick as Ambassador to the United States, Liberals heralded it as the dawn of a new era in Canada-U.S. diplomacy, but McKenna has not delivered. In fact, as time goes by, his tenure as Canada's Ambassador to the United States is very much becoming one of diminished returns.

My supplementary question for the Leader of the Government in the Senate partly concerns the ambassador's recent comments when he called the American political system dysfunctional. In view of the failure of Mr. McKenna to cultivate any real influence in his current role, as illustrated by the frustration evidenced in his recent verbal miscue, would this government consider the Conservative Party's highly sensible suggestion to appoint a special envoy exclusively dedicated to resolving the softwood lumber dispute?

Senator Austin: Honourable senators, it is really entertaining and amusing to listen to the political fantasies of Senator Oliver with respect to his question. The reality, however, is that Ambassador McKenna is performing an outstanding job in representing Canada in the United States.

Some Hon. Senators: Hear, hear!

Senator Austin: I think Senator Oliver and some on that side may be confused between the integrity and the vigour of representing Canada and the bowing to dictates of the United States, thinking that this is the best way to represent Canadian interests in the U.S. One might only reflect on the Leader of the Opposition in the other place and his statements with respect to Canadian interests, particularly his interest in supporting the United States in its policies directed toward Iraq.

Honourable senators, I do not want to become tendentious about the role of Ambassador McKenna, but I do want to say that the U.S. Secretary of State, the Honourable Condoleezza Rice, has been in Ottawa since yesterday for bilateral discussions on a number of issues in Canada-U.S. relations. Ambassador McKenna is involved, as is the American ambassador, and these talks are proceeding in a businesslike and positive way. It is not in the Canadian national interest to ask the types of questions that Senator Oliver is asking, unless he has something of a specific character with which to charge Ambassador McKenna.

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, the minister made reference to the visit of the U.S. Secretary of State. If it is true that the honourable Prime Minister is defending the interests of Canada to the United States, can the minister right now, in a concrete way, in order to illustrate how well the Prime Minister of Canada is defending the interests of Canada, confirm that Ms. Rice has given the Canadian government the \$3 billion or \$4 billion the U.S. owes Canada under the free trade agreement in the softwood lumber dispute?

[English]

Senator Austin: Honourable senators, I would love to confirm that the results of the talks between the Secretary of State, the Prime Minister and our Minister of Foreign Affairs had a complete capitulation on the part of the United States on softwood lumber. I do not think anyone here realistically expects that I will be able to do that.

As to the first part of the honourable senator's question, I wonder if he is aware that the Prime Minister spoke to the Economic Club of New York in the last three weeks and delivered a clear message about Canada's views of NAFTA, of the softwood lumber issue and the obligations of the United States under NAFTA.

EFFICACY OF DIPLOMATIC INITIATIVES

Hon. David Tkachuk: Honourable senators, I go back to Senator Oliver's query. It did no good to demean Senator Oliver's characterization of Canada's attitude to the United States. It does this place no good for the leader to imply that acid rain was not a victory for Canada and that Prime Minister Mulroney did not stand up for Canada's interests, because he always did. On the issue of South Africa Prime Minister Mulroney stood up to the United States. He stood up to Great Britain and he stood up to other conservative leaders throughout the world on that issue. He stood up to them on the missile defence shield and on Arctic sovereignty.

Everyone on this side has Canada's interests at heart, not the Liberal Party's interests at heart. Prime Minister Chrétien and Prime Minister Martin have not dealt in a forthright manner with the Americans on many occasions. I remember the former Prime Minister on the question of Iraq. It was not the question that we differed with them on Iraq that was the big deal, but the fact that he said that they could hear about it on CNN. That is not how you treat neighbours. That is not how I would treat a neighbour. That is not how people on this side would treat a neighbour. The Prime Minister can continue to do that and think that somehow he will get ahead on this matter, but he will not.

Senator Austin: Is this a question or is this a speech?

Senator Tkachuk: I am trying to make a point that you started.

Senator LeBreton: You make speeches all the time.

Senator Tkachuk: You have made your speech and I will make mine.

Senator Austin: You are only asking questions and I am answering them.

Senator Tkachuk: You may comment on it if you wish.

Hon. Jack Austin (Leader of the Government): Thank you. I leap to my feet to comment on Senator Tkachuk's speech.

First, I want to say that I admire his ability to make a speech in Question Period.

Senator LeBreton: You are the expert at it!

Senator Austin: As well, I admire his ability to outline in his speech a series of policies followed by the Mulroney government. In fact, there was no basis in what I said for the speech that the honourable senator started. I said that I did not intend to speak to the question of a reference to Prime Minister Mulroney because these times are different circumstances from his times.

Senator LeBreton: Check the blues!

Senator Tkachuk: Do not change them.

Senator Austin: That was all I said about Prime Minister Mulroney.

I understand the role of Senator Tkachuk is to keep justifying the past.

Senator LeBreton: You have dined off it for years.

Senator Austin: I am not being negative about any of the policies to which the honourable senator made reference. One way or the other, history will decide on the accomplishments of the Mulroney government.

Senator LeBreton: They already have.

Senator Austin: The editorial comments in this chamber will not add or detract from that judgment.

I want to make clear to honourable senators that in the era in which we are now living, Canada and the United States have an excellent relationship. Senior level talks are being conducted on a wide range of issues. However, I want to make clear, too, that the United States Congress is reacting in ways that deal with their view of globalized issues. They have policies with respect to trade. They have policies with respect to the transfer of manufacturing activity. There are domestic politics in the United States. This is not the Mulroney; it is a different era. We have to deal with the differences, and we have to ask the United States to stand up to their obligations when a final NAFTA panel provides a judgment. That is the position of the Canadian government on softwood lumber and that is the position from which we want to start in our negotiations with the United States.

• (1450)

NATIONAL FINANCE

INVITATION TO CHAIRMAN TO SPEAK ON PRESENCE OF VISIBLE MINORITIES IN BIG BUSINESS

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, my question is for Senator Oliver, Chairman of the Standing Senate Committee on National Finance. It is my understanding that the National Finance Committee will be continuing its study that will take it to Ireland and the United Kingdom in the next few days. It is my understanding that a happy occasion has presented itself where the Canadian High Commissioner to the Court of St. James has extended an invitation to the honourable senator, which brings honour to this chamber, to give a public speech on diversity. Is that true and is the honourable senator receiving support?

Hon. Donald H. Oliver: I thank the honourable senator for his question. Yes, it is true. I am deeply honoured to have been asked. I would like to read the notice that was sent out by the Canadian High Commission under the hand of Canada's distinguished High Commissioner in London:

The Canadian High Commission in London in conjunction with Operation Black Vote would cordially like to invite you to attend a round table discussion with the Hon Senator Don Oliver on Monday 7 November at 1800 hours at Canada House, Trafalgar Square, London.

Senator Oliver has been instrumental in challenging Canada's big business for its lack of senior "visible minorities" in the work place.

His ground breaking report, "Maximizing the Talents of Visible Minorities, An Employer's Guide", is already having a big impact within business circles.

As part of the round table discussion Senator Oliver will give an outline of his report, and take questions, but is also keen to listen and learn from the BME (Black and Minority Ethnic) experience here in the UK. It will also be an opportunity for activists, politicians and those in business to build greater links with potential partners in Canada.

The meeting should last no more than 1.5 hours. Snacks and drinks will be provided.

I have been informed that the Leader of the Government in the Senate is opposed to my giving such a speech.

Hon. Jack Austin (Leader of the Government): Might I ask Senator Oliver where he heard such a thing?

Senator Oliver: Is the Leader of the Government denying that he has been attempting to prevent the speech?

Senator Austin: Absolutely. Why would I want to prevent any speech the honourable senator wants to make? Who told you such a thing? That is an absolute untruth.

Senator Rompkey: Withdraw.

Senator Stratton: He is calling you a liar.

Senator Rompkey: Withdraw.

The Hon. the Speaker: Are we ready for Orders of the Day?

Hon. Terry Stratton (Deputy Leader of the Opposition): No, no, no. I cannot let this pass even if Senator Oliver can. I would ask the Leader of the Government in the Senate to withdraw that statement until this matter is checked out.

Senator Austin: Not at all. There is no evidence of any kind whatever that I have reflected that Senator Oliver should not make a speech any place he wishes to make a speech and on any topic he wishes to make a speech. That is an outrageous comment.

Senator Stratton: It appears that you are content to call him a liar.

Senator Austin: I said what I wanted to say, and if you want to carry this dispute further, by all means, you carry it further in any way you want to carry it.

I want to put on record that Senator Oliver and I have never had a conversation on this subject of where or when or on what topic he would ever make a speech. That is outrageous.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting delayed answers to two oral questions raised in the Senate.

The first response is to a question raised in the Senate by Senator Tkachuk on October 20, 2005, in regard to registration as a lobbyist.

[English]

The second is a response to an oral question raised on October 18, 2005, by Senator Murray regarding the Canadian Broadcasting Corporation/Radio-Canada.

INDUSTRY

MR. DAVID DINGWALL—REGISTRATION AS LOBBYIST FOR BIONICHE LIFE SCIENCES INC.

(Response to question raised by Hon. David Tkachuk on October 20, 2005)

The Department, based on the work conducted by external auditors, determined that the company was in breach of certain of its obligations under its TPC contribution agreements. As a result of that determination, the Department issued a notice of event of default to Bioniche.

The Government and Bioniche have subsequently agreed on the rectification of this matter.

A Status Report, released this September, confirmed the existence of company non-compliance issues with terms dealing with the payment of contingency fees and the use of unregistered lobbyists. This is prohibited, and the department acted immediately.

When companies have been found in breach of their contracts, we have sought and received remedy payments equivalent to the amounts paid or payable by the company to its lobbyist, plus the cost of conducting the audit. The Auditor General agrees with our approach. The taxpayer's interest is protected.

CANADIAN BROADCASTING CORPORATION

UNION LOCKOUT— INVOLVEMENT OF BOARD OF DIRECTORS

(Response to question raised by Hon. Lowell Murray on October 18, 2005)

- The CBC/Radio-Canada is a Crown corporation that operates at arm's length from the Government and is responsible for its own day-to-day management, including contract negotiations with unions.
- The issue the Honourable Senator raises as to the relationship between the CBC/Radio-Canada Board of Directors and Senior Management with regard to the recent labour disruption is within the purview of the CBC/Radio-Canada.
- The labour dispute was resolved through collective bargaining between the Canadian Media Guild and the CBC/Radio-Canada with the assistance of the Federal Mediation and Conciliation Service as appointed by the Honourable Joseph Frank Fontana, Minister of Labour and Housing. It was not and would not be appropriate for the Government to intervene otherwise on this issue.
- A copy of the profile of the CBC/Radio Canada Board of Directors is attached.

(For copy of profile, see Appendix, p. 1996.)

ORDERS OF THE DAY

PUBLIC SERVANTS DISCLOSURE PROTECTION BILL

SECOND READING—DEBATE ADJOURNED

Hon. David P. Smith moved second reading of Bill C-11, to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings.

He said: Honourable senators, Bill C-11, which is captioned "An Act to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of

persons who disclose the wrongdoings," has been abbreviated to the Public Servants Disclosure Protection Act. In a nutshell, this bill is all about transparency, accountability, financial responsibility and ethical conduct in the federal public sector.

Honourable senators, every now and then a piece of legislation arrives that ends up representing consensus. I believe that this bill falls into that category. I am not suggesting that the bill started off reflecting consensus, but I do believe it wound up there. It does not happen too often. When it does happen, it is not because the government that presents the bill, regardless of what party might form the government, is the fount of all wisdom on the subject, although that might be nice. However, I do not think that is the case. I believe, though, that there are several dynamics necessary for a bill to wind up achieving the consensus benchmark.

First, there must be a genuine need for the legislation on the subject matter. Whistle-blowing protection is hard to argue with. Second, basic elements of the bill need to be strong, not necessarily perfect when it starts off, but strong. I would suggest that those elements are the following: a rationale, objectives, and reasonable and practicable mechanics to achieve those objectives.

If we start off with a bill that fits that definition of being strong but not perfect, what else is necessary to reach consensus? First, there is input from other parliamentary parties and input from non-parliamentary parties. I would suggest that in this particular instance, that did occur. Second, listening with open minds on both sides of the house is necessary, and I would emphasize the phrase "with open minds." How do we know when these four dynamics — the need for rationale for the bill, a strong framework, bona fide inputs and open minded listening — occur?

Let me suggest a few litmus paper tests. By way of background, it is important to understand that there was a predecessor bill to Bill C-11, known as Bill C-25. Senator Kinsella also had a bill that he sponsored which dealt with the same subject. Both government bills were introduced in 2004, one before the election and one after the election. The numbers that I will cite relate to both bills, but they were both introduced in the same year.

First, on the subject of hearings, the House of Commons Standing Committee on Government Operations and Estimates had 33 meetings on the whistle-blowing subject.

• (1500)

Of those, 27 were on Bill C-37, the current bill, and six were on Bill C-25, its predecessor, for a total of 33 meetings.

One hundred and thirteen witnesses testified on the subject of whistle-blowing. Eighty-two spoke to Bill C-11 and 31 spoke to Bill C-25, for a total of 113. The witnesses included representatives of 76 organizations, with 37 witnesses appearing as individuals.

Fifty-two amendments were adopted, including amendments proposed by members of the opposition, some of which were of fundamental significance.

Twenty amendments were voted on but not adopted. We can assume there was lively debate. That figure does not include those that were withdrawn. Six were not formally moved and one was deemed not admissible. The bottom line is that 52 amendments, which were put forward by various parties, were adopted.

This process is not unprecedented but is certainly not routine. The criteria I have identified as relevant — the need, the sound basic elements, the input and everyone listening with an opening mind — did occur. How do we know that it passed that threshold? It passed with a unanimous vote in the House of Commons. That does not happen often. At the outset, unanimous agreement would not have been possible. It occurred as a result of the process that was outlined here.

I might mention that nothing I have said comes from any department of government. These are my own perceptions on how this controversial bill which deals with an important subject matter was passed unanimously.

I should now like to touch on the basic elements of the bill.

Bill C-11 is important, both for its content and for the democratic process by which it has been developed. If passed, Bill C-11 will give Canada one of the world's strongest legislative frameworks in support of ethical conduct in the federal public sector. It will help build a public service climate in which employees can honestly and openly raise concerns about potential wrongdoing without fear or threat of reprisal. It will encourage public servants to disclose possible wrongdoing, but it will also ensure a fair process for those against whom allegations are made.

It is crucial that people understand that the protection of whistle-blowers does not work if complaints are not made in good faith. A complaint may be founded on erroneous facts, and that is all very well but, if a complaint is made for mischievous, malicious or defamatory reasons, then the protections outlined in the bill are not guaranteed, nor should they be. It is important that what we do has balance.

The bill before is the outcome of open and vigorous public debate. As I mentioned, there was a great deal of input from all the parties.

Let us go through some of the features of this bill. First, it applies not just to the core public service but to the entire federal public sector, including departments, separate federal agencies and Crown corporations. It applies equally to members of the RCMP. I might point out that that amendment was moved by a Conservative member and seconded by a Liberal member. It is fair to say that this is one instance when members put aside partisan differences.

Organizations excluded from specific application — the Communications Security Establishment, CSIS and the Canadian Forces — are not completely exempt from the provisions of the bill. Each of these organizations must establish its own disclosure and reprisal protection regimes similar to those set out in this bill and satisfy Treasury Board that it has done so.

Second, the bill defines wrongdoing broadly, to include activity in or relating to the public sector. It is not restricted to activities carried out by public servants. Wrongdoings include any violation of the law, any misuse of public funds, gross mismanagement, a danger to the life, health or safety of Canadians or the environment, and a serious breach of a code of conduct. Furthermore, any reprisal — and this is most important — taken as a result of a disclosure is also considered to be an act of wrongdoing. This is one of several important protections contained in the bill for those who would make a disclosure, protections that I will now discuss in detail.

Third, the bill allows for the disclosure of information about a possible wrongdoing. In other words, public servants do not require absolute certainty about whether or not a wrongdoing has occurred or is about to occur before making a disclosure. I would again point out, though, that this is assuming that they are doing so in good faith because, if they are not doing so in good faith, they do not have that protection.

Fourth, while the proposed legislation is aimed at public servants, the public sector integrity commissioner will have the discretion to commence an investigation as a result of information received from a person other than a public servant. If information comes into his or her hands, an investigation can occur.

This brings me to one of the key features of the bill, one about which honourable senators may have already heard. This is, of course, the proposed establishment of a new public sector integrity commissioner as the neutral third party to receive disclosures. I do not think that provision was contained in the bill sponsored by Senator Kinsella He was unable to include that provision since it such an appointment would have required Royal Consent.

Of course, Senator Kinsella's can speak for himself, but I believe that he will agree that the end result of the process we embarked upon is a satisfactory one, in that we now have a provision which will provide for the appointment of a public sector integrity commissioner.

The public sector integrity commissioner would receive, investigate and report on disclosures of wrongdoing in the federal public sector. The commissioner would exercise investigative and other powers equivalent to those of other officers, such as the Information and Privacy Commissions and the Auditor General. He or she — and I cannot resist pointing out that some of the original draft notes referred to "she", which, I am sure was not a slip of the pen — would report directly to Parliament on an annual basis and could also make a report to Parliament where an issue warrants a special report, that is, if an issue arises must be dealt with in a timely fashion.

While the establishment of an independent officer of Parliament for disclosures is an important part of the bill, if the legislation is to work, public servants must feel confident that they will not face reprisal for making disclosures.

A key challenge with this type of legislation is determining the appropriate balance between openness and transparency and the protection of persons who make disclosures. Over the past few months, this issue has been the subject of much debate. Refinements have been made to the bill to achieve the correct

balance. I believe this bill has succeeded by providing for release of records relating to disclosures under access to information legislation within a reasonable time frame, namely five years, but in the shorter term, protecting the confidentiality of the disclosure and investigation process and the identities of persons involved in the disclosure process so that they will feel safe and have the confidence to make disclosures.

Bill C-11 includes strong confidentiality and reprisal protections for public servants who make disclosures. First, employees are free to choose between whether they make disclosures within their own organization or to the public sector integrity commissioner. They have a choice. Second, the identity of a person making a disclosure must be protected to the extent possible. Third, if, despite best efforts, the identity of a discloser should become known, the bill allows for the temporary reassignment of employees involved in the disclosure process, should there be concerns about possible reprisals.

• (1510)

Should employees believe they have suffered reprisal in spite of the above measures, they could then make a reprisal complaint to labour boards that have the authority to remedy the situation, including the payment of compensation. They also have a reasonable time frame in which to make such complaints to the boards. All these provisions are aimed at giving public servants more confidence to come forward.

I would also like to clarify a few points that have been raised in public and parliamentary debate. I would like to underline again unequivocally that public servants can go directly to the commissioner with their disclosure of wrongdoing. As I have said, they also have the option of using an internal mechanism if public servants prefer to raise that issue within their own organizations.

I also stress that this legislation is intended to help prevent wrongdoing from occurring in the first place and to address the situations of wrongdoing or potential wrongdoing as quickly and as expeditiously as possible. I think this bill is all about establishing a culture.

For example, the purpose of the commissioner's investigations under this proposed act, Bill C-11, is to bring the existence of wrongdoing to the attention of chief executives and to make recommendations so that corrective measures can be taken by the chief executives who are responsible for managing their organizations.

Regarding the argument that this bill is not strong enough, it is important to note that if the commissioner is not satisfied with a chief executive's response to his or her recommendations, the commissioner can elevate the matter to the minister or the governing council of a Crown corporation. As I said earlier, the commissioner can also make a special report to Parliament, if necessary, apart from their annual report. This process does not

in any way mean that there are no punishments or consequences to wrongdoing.

In addition to all existing legal sanctions or breaches of any acts or regulations, all current administrative sanctions available through the regular disciplinary process can apply to public servants up to and including dismissal.

Some have also called for rewards to persons who make disclosures of wrongdoing, and they have pointed to the U.S. system as an example. There has been talk about this, but it is a myth that public servants in the United States are rewarded financially for whistle-blowing. I will repeat the word "myth." No such awards are provided by the Whistleblower Protection Act.

Citizens may sue on behalf of the government, individuals or corporations for defrauding government, and they may retain a portion of the proceeds under the False Claims Act. U.S. public servants do not receive financial rewards for whistle-blowing. I think we in Canada do not want to go down this road. Honourable senators, it would be contrary to our values to do so.

While one should never suffer for trying in good faith to protect the integrity of public sector institutions, neither do we want to live in a society that must provide financial incentives for people to do the right thing.

This brings me to the larger overall purpose of the Bill C-11: Building a positive environment for the demonstration of public service values. The goal is a public sector environment that promotes and supports positive behaviour and sets those behaviours as the norm; an environment in which employees are comfortable talking about problems and supervisors are comfortable dealing with them before they grow into a major situation.

That is why the bill requires the minister responsible for the Public Service Human Resources Management Agency of Canada to promote ethical practices in the public sector and a positive environment for disclosing wrongdoing. It is why the bill also commits the government to establishing a charter of values of public service setting out the values that should guide public servants in their work and professional conduct.

Finally, it is why the Treasury Board must establish a code of conduct for the public sector and why heads of public sector organizations must also establish codes of conduct specific to their organizations and in keeping with the Treasury Board code.

These are the main features of the proposed Public Servants Disclosure Protection Act. The bill sets out a broad regime for the disclosure of wrongdoing, a regime broad enough to meet every potential situation that could arise. The bill is underpinned by strong protections and other provisions to encourage public servants to report potential wrongdoing, and it is set into a legislative framework that supports these strong values of service, integrity and honesty that hundreds of thousands of Canadians have demonstrated as public servants since this country was born.

The origins of Bill C-11 date back to 2003. It is an evolution of a previous disclosure bill that received much input, committee work and debate in the other place but did not progress through Parliament due to the election call in the spring of 2004. That previous bill was, of course, Bill C-25.

The bill was revised to take into account the input received during its sojourn in the other place and was reintroduced there in October 2004.

I also want to underline to honourable senators that if and when this bill is passed, our involvement in the disclosure legislation will not end. We will have the opportunity and the responsibility to keep tabs on how the legislation is being implemented.

For example, as I said a moment ago, the bill requires the Treasury Board to establish, in consultation with employee unions and bargaining agents, a code of conduct for the public sector. The importance of this code cannot be underestimated. A serious breach of the code is considered a serious wrongdoing under the proposed act. Once the code is developed, parliamentarians will have an opportunity to review it, as it will be tabled in each House for at least 30 days before it comes into force.

In addition, if the bill passes, a public sector integrity commissioner will need to be selected and appointed. The appointment will be approved in both Houses — I repeat that phrase, in both Houses — thus giving us a participatory role in the process of selecting the right candidate for this important position.

Of course, as an Officer of Parliament, the proposed new commissioner will not be accountable to a minister but will report directly to us here in Parliament. The commissioner will report annually to Parliament and, as I have said before, will be free to make special reports when appropriate.

Finally, Bill C-11 also requires a review of the proposed act five years after its implementation. That requirement is built in. This review will allow Parliament to assess how well the legislation is functioning, whether it has had unintended consequences and whether any changes need to be made.

In conclusion, if and when this bill passes, we in this house will still have an important role to ensure that it is implemented well. We will have a responsibility to ensure that it lives up to its potential to help restore the confidence of Canadians in their public institutions by making public sector management more open and accountable.

Honourable senators, Bill C-11 is about setting aside partisan differences. All four parties obviously were able to do that in the house, which was refreshing to see. Bill C-11 is also about getting down to the tough but rewarding job of working collaboratively and creating the best possible legislation for Canadians.

Bill C-11 is even more about valuing the important role that the public service plays in our democratic institutions. It is about creating a public sector climate — I like the word culture — that allows and encourages the vast majority of honest and committed public servants to continue to be the best that they can be in the service of government and Canadians.

The Hon. the Speaker: Will you take a question, Senator Smith?

Senator Smith: Yes.

Hon. Noël A. Kinsella (Leader of the Opposition): First and foremost, honourable senators, I wish to congratulate Senator Smith for his explication of the principle that is contained in Bill C-11. This chamber is familiar with the file, having examined it in principle. The Standing Senate Committee on National Finance has also examined the Bill C-11 in great deal and heard witnesses on a couple of other whistle-blowing bills before us. I appreciate the progress that has been made, and I am sure that the work of all honourable senators has helped move this proposed legislation, under various drafts, to the stage it is at now.

• (1520)

Senator Smith did allow that the bill was not perfect in that there may be some flaws. As senators, our business is to determine if proposed legislation is flawed and to suggest amendments to correct those flaws.

Senator Smith has a wealth of experience and knowledge of parliamentarians, and I am sure he will recall the red book promise of 1993 and the correspondence of his leader at the time. Why does he think it has taken all these years to pass a bill through the House of Commons on whistle-blowing when a commitment or a promise was made by then Liberal leader Mr. Chrétien that that would be one of the first bills introduced by his party if they formed the government back in the early 1990s? As a historian, I am curious about why has it taken so long.

Senator Smith: Honourable senators, I am certain that question was asked objectively and in good faith, so I will try to answer it objectively and in good faith. The answer is: I do not know.

Senator Di Nino: An honest answer. That is good.

Senator Smith: I suppose on any given day there were, perhaps, more pressing issues. Yes, I admit that it would have been better if it had been dealt with earlier. I also believe that Senator Kinsella's private bill helped to develop a receptive consensus on the Hill that it was time to move on this issue. When it was voted on in the Commons — and I spent quite a bit of time on that today — it did receive unanimous consent. That is a pretty high threshold to achieve. However, I admit it probably took them too long.

Senator Kinsella: My second question to Senator Smith is this: The honourable senator accurately traced the debate, and I must confess that I did not follow it every day in the House of Commons or in the committee of that House. As described, a large number of amendments were put forward, many of which were proposed by colleagues in my own party in the other place. Therefore, in a sense, the bill that comes from the other place is a consensus bill.

After a large number of witnesses appeared before the House of Commons committee, amendments were proposed. Many of those witnesses probably would not recognize the present bill as the bill that they spoke to when they appeared before the committee. Am I correct in reading the record from the other place that those witnesses — many of them are to use the terminology of the town, particular stakeholders — have not had a chance to comment on Bill C-11 as it has been sent to us from the other place?

Senator Smith: Honourable senators, I would have to go through the list thoroughly to give an accurate response to that question. I believe, in some instances, the same witnesses spoke to both Bill C-25 and then, after the election, Bill C-11.

To go back to the honourable senator's earlier question, I cannot resist observing that this is a opportunity for this institution to show how we can do the right thing expeditiously without abandoning due diligence.

Senator Kinsella: This brings me to what I consider to be a terribly important point and, hopefully, a point upon which we will have agreement in this house. Those many witnesses have loads of experience to share on this whole area of whistle-blowing, including the experience of individuals who were victimized by retaliation when they courageously blew the whistle on apprehended wrongdoing. Senators in our committee will carefully study the bill, in the course of which we will hear from those witnesses. We will not be rushed in our study of this bill. We will conclude a serious study. In particular, we will hear from those many witnesses who have not had the opportunity to express their views to Parliament on the bill as it is now before this chamber. The bill was amended significantly during the committee process in the other place.

Does the honourable senator know whether a draft document dealing with Charter issues as they may affect public servants has been prepared and, if so, has he seen such a document?

Senator Smith: I understand there has been a great deal of discussion on this subject, but I have not seen such a document.

I agree with the honourable senator's earlier comments. I also believe that most senators would hope that this bill would be passed before we go to the polls. If we put our shoulders to the wheel, we can make that happen, with due diligence.

Hon. Marcel Prud'homme: Honourable senators, I am pleased to participate briefly by asking a question. As every senator should, I listened attentively to the honourable senator's comments. When the bill is being dealt with in committee I will give careful consideration to the exception in the bill. Would the honourable senator care to comment on that exception?

Senator Smith and I have known each other for a long time. We knew each other 45 years ago as young Liberals, as well as Senator Grafstein and a few others. We are still here.

CSIS and the RCMP have been excluded from the provisions of this bill. However, they will have to establish disclosure and reprisal protection regimes which satisfy the Treasury Board. I am not one of those who trembles in his shoes at the thought of touching CSIS and the RCMP, having dealt with both at different times. However, I should like to be sure of what we are proposing to do. I will attend the meetings of the committee that will be studying this bill to learn why these organizations are excluded. Will the response of Treasury Board simply be say that they are satisfied because the RCMP and CSIS have assured them that whistle-blowers will not be punished? If there is a place where whistle-blowing is prevalent these days, it is CSIS. Yet, they are excluded from the provisions of this bill.

Senator Smith: Originally, the RCMP was not to be excluded but, as the result of an amendment proposed by a Conservative and supported by a Liberal in the other place, the RCMP is now included. The organizations excluded are the Communications Security Establishment, CSIS and the Canadian Armed Forces. They are obliged to establish their own disclosure and reprisal protection consistent with the requirements of Treasury Board. The RCMP are included. I am sure the honourable is familiar with the mindset of the military and the security establishments. They will have to come up with their own compatible systems.

• (1530)

Senator Prud'homme: Because of their mindset, I think we should look into that when it goes to committee.

Hon. Serge Joyal: May I ask an additional question?

Senator Spivak: I would like to adjourn the debate and speak on it tomorrow.

Senator Joyal: The honourable senator has referred in his presentation of the bill to the fact that the public sector integrity commissioner would be an officer of Parliament. If I remember correctly, he used that term.

In reading the bill quickly — and I thank Senator Robichaud for having given me a copy — at sections 38 and 39, there seems to be a confusion on the concept of "officer of Parliament." I will explain my point.

The honourable senator will remember well when we adopted the bill recently establishing a Senate Ethics Officer, it was clearly stated in the bill that the SEO was an officer of Parliament. Not only that, he was exercising his responsibility within the institution of the Senate and, moreover, he enjoyed the privilege of the Senate and the senators individually. To me, that bill is clear. There is no question or any doubt in my mind that the SEO is an officer of Parliament, meaning the SEO is an extension of the Senate. The SEO exercises a power of the Senate and the power is the disciplinary power that the Supreme Court has recognized as being a power of this chamber. It is within this chamber that the SEO exercises his or her role and responsibility.

When the honourable senator uses the same expression, "officer of Parliament," in relation to the public sector integrity commissioner, I recognize that the integrity commissioner is appointed after the approval of appointment by resolution of the Senate and the House of Commons in section 39(1). I recognize, at section 38(5), that the integrity commissioner tables a report to Parliament each year, to the Honourable Speaker. However,

when you read the other sections of the bill — section 39(1), the commissioner has the rank and all the powers of a deputy head of a department; and 39.2(3), the commissioner is deemed to be employed in the public service for the purpose of the Public Service Superannuation Act — It seems there are two kinds of references at the same time.

The honourable senator concludes in his presentation that the new commissioner is an officer of Parliament, so we have to see him or her as an extension of the Senate's power. The new commissioner exercises the Senate's power, probably with the protection that entails; but at the same time, the commissioner seems to be a position within the public administration, which means not the Senate but the administration. It might seem arcane as a distinction, but it is important for the duty that the person will have to perform on behalf of the Senate, if the commissioner is to be an officer of Parliament.

When he or she performs his or her duties according to the act, the way that the act defines those duties is that the commissioner is acting on behalf of the Senate and not on behalf of the administration. There is a slight distinction between the two, honourable senators. I know you might not want to answer in detail, but I think the committee will have to look into that. We really need to understand what that position means in terms of its independence with the administration versus the commissioner's responsibility, which is the responsibility of the Senate, to make sure that the Senate can protect somebody in the administration that might be the object of recourse by his or her superiors in the performance of his duties, and his responsibility to report wrongdoing.

I think there is a slight difference between the two, but I do not see that difference in the bill unless I have not read it correctly. There is a little confusion here.

Senator Smith: That is a precise question, which probably warrants a studied response.

I understand what the honourable senator is getting at. I do not think establishing the rank officers of Parliament are equal to is incompatible with the officer of Parliament designation. I believe the SEO has a similar rank, so there is certainly a pattern there. Of course, officers of Parliament can also be removed by joint address.

These questions are legalistic, but of serious importance. I am sure they will be addressed at committee and I welcome that.

Hon. Anne C. Cools: Honourable senators, I was listening to the debate with some interest. I have done a fair amount of research on the history of officers of Parliament and I have discovered that the constitutional creature called an officer of Parliament, is a novel animal and one that was quite recently created.

The literature is replete with officers of the House of Commons and officers of the Senate. For example, our clerk, Mr. Bélisle, is an officer of the Senate; and with due respect to Senator Joyal, I believe our Senate Ethics Officer is an officer of the Senate. He is not an officer of Parliament only of the Senate.

I want to make the point because I take Senator Joyal's point well — that the Senate committee has to give this matter ample study and consideration to satisfy itself that the appropriate constitutional tool is being used to constitute the position that is required. I urge the committee members — I do not see the chairman here at the moment — to study this particular point thoroughly.

I believe that when we were studying a bill or some other issue some years ago, we had a witness before us — I think his name was Professor Smith — who reported in his testimony that he could find very little on the officers of Parliament. I believe that the term "officer of Parliament" makes its entry into Canadian constitutional history — I am not sure, I would have to look this up — with the creation of the new Auditor General Act, many years ago following that whole crisis with Auditor General James MacDonnell and the subsequent creation of the new Auditor General Act.

I am not totally convinced that this is an appropriate or a desirable constitutional instrument to use for this so-called whistle-blower act. It may well be that the committee investigation and study may convince me that it is a desirable way to proceed. However, I am making the point to emphasize the constitutional importance of this position.

It is not my way to use the slang, "whistle-blowers." However, we must be sure that we are proceeding in a proper way; otherwise, we will end up with another creature that will be a novel constitutional creature, unknown to the Constitution. It will undoubtedly present a host of problems and mischief that none of us are yet able to contemplate or even consider.

• (1540)

My question to the honourable senator has to do with precisely the point I raised, bearing in mind the brevity of the constitutional existence of these officers of Parliament. Perhaps the honourable senator could tell this house why it was determined that an officer of Parliament could fulfill the particular task intended in the bill.

The Hon. the Speaker: Honourable senators, I advise Senator Smith that his time has expired. Does the honourable senator wish leave to continue?

Senator Smith: Yes, I am happy to attempt to answer the question of the Honourable Senator Cools.

Hon. Bill Rompkey (Deputy Leader of the Government): This side agrees to leave to continue for five minutes.

Senator Smith: It is my understanding that the other place chose an officer of Parliament because they determined that the role and function should be carried out by someone who reported to Parliament rather than to the administration only. I agree with that logic. I would confirm that the witness to which Senator Cools referred is the distinguished Professor David Smith from the University of Saskatchewan.

Senator Cools: It seems to be a little known fact that the Queen is the head of Parliament. Parliament has no power to create its own officers. This is one of the reasons I raise this oddity. It is a characteristic of each house of Parliament that its officers are

appointed under the Royal Prerogative of Her Majesty the Queen. The House of Commons and the Senate have no power to create or appoint their own officers or their clerks or law officers, so I do not understand how Parliament can expect to do this. I have done much research and would appreciate help on the issue. Is the Honourable Senator Smith aware whether the government side, in proposing this legislation, contemplated any of these thorny constitutional questions? I understand that the government has a way of saying "it is so" and, therefore, the law is whatever the government says it is. Frequently I disagree with that view. Did the government contemplate the thorny issue of creating such an officer of Parliament to work in this kind of situation?

Senator Smith: The short answer is, yes, government did contemplate the issue. I might give Senator Cools comfort by saying that I believe in and support the monarchy system, but if it were to put government in a straitjacket such that it could never do anything, then I might have to rethink that. I do not think that it does put us in such a straitjacket. When an approach represents good public policy and there is a will, then there is a way. I believe those in the other House have found an appropriate way.

Senator Cools: I understand that the honourable senator has his beliefs, which he has articulated, but I believe that the law is greater than beliefs. What is the constitutional authority for bringing forth this position as an officer of Parliament?

Senator Smith: Those matters are studied quite thoroughly by the appropriate authorities in the Privy Council, in whose qualifications you might not have great comfort. However, they are quite sensitized to the issues raised by the honourable senator. The approach spelled out in the bill is appropriate for putting sound public policy in place.

On motion of Senator Kinsella, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Mobina S. B. Jaffer moved second reading of Bill C-49, to amend the Criminal Code (trafficking in persons).

She said: Honourable senators, it is with great pleasure but also with some sadness that I rise today to speak in strong support of Bill C-49, to amend the Criminal Code in respect of trafficking in persons. I am very happy that Canadians are taking the necessary steps to stop the heinous crime of human trafficking, but I am very sad that these kinds of deplorable acts happen anywhere in the world, let alone right here within our borders.

Honourable senators, last week I was Abuja, Nigeria, where I met with officials of the Nigerian National Agency for the Prohibition of Traffic in Persons, NAPTIP. I also met with nine girls from the ages of 12 to 15 who had, a few days ago, been rescued in a bus station. These girls were with a woman — in Nigeria they call them "Madams" — who was preparing to traffic them as house girls in Lagos and later, when they were a little

older, as sex objects in Italy. All these girls were in school, but their parents had sold them to a Nigerian Madam.

While talking to the girls, I really bonded with a young 12-year-old who was so innocent. There are many girls like her who will not be rescued. I am so privileged to speak in support of Bill C-49 because it is for girls like my little friend in Nigeria.

Honourable senators, Bill C-49 is important not only because it proposes new protections against human trafficking but also because of what it represents at its core.

[Translation]

It is a reflection of Canadian ideals and values in that it seeks to protect against criminal violations of fundamental human rights. It is a reflection of the Government's commitment to these fundamental values. It is a realization of the Government's Speech from the Throne commitment to introduce criminal law reforms to better protect against human trafficking.

[English]

To understand how important this bill is, honourable senators must understand the devastating consequences that human trafficking has on people. I will read a human trafficking experience from the U.S. 2005 Trafficking in Persons Report of a woman called Neary.

Neary grew up in rural Cambodia. Her parents died when she was a child, and, in an effort to give her a better life, her sister married her off when she was 17. Three months later, they went to visit a fishing village. Her husband rented a room in what Neary thought was a guest house. But when she woke the next morning, her husband was gone. The owner of the house told her she had been sold by her husband for \$300 and that she was actually in a brothel.

For five years, Neary was raped by five to seven men every day. In addition to brutal physical and sexual abuse, Neary was infected with HIV and contracted AIDS. The brothel threw her out when she became sick, and she eventually found her way to a local shelter. She died of HIV/AIDS at the age of 23.

Neary was a victim of human trafficking. Although she was from Cambodia, she could just as easily have been from anywhere else in the world, including Canada. Bill C-49 is for people like Neary, my young Nigerian friend, and many others.

• (1550)

This is a bill about people. It is about protecting the fundamental values of human security and human dignity that we value as Canadians. On third reading debate on this bill in the House of Commons, the Minister of Justice said:

...the true measure of a society's commitment to the principles of equality and human dignity is taken by the way it protects its most vulnerable members. This is what Bill C-49 is all about. It is about more clearly recognizing and denouncing human trafficking as the persistent and pervasive assault on human rights that it is.

These are the basic principles that serve as a starting point in discussing Bill C-49.

[Translation]

Sadly, human trafficking is not new. Throughout history, people have been bought and sold, traded as though they were commodities in flagrant violation of their worth as individuals and for the sole benefit of those who would seek to exploit them.

Today's human trafficking has many parallels to these historical experiences which explain why it is often described as the "contemporary global slave trade."

While countries around the world continue to struggle to fully understand the pervasiveness of this clandestine activity, what we do know is staggering and simply unfathomable.

[English]

In a report released in May 2005, the International Labour Organization estimated that at any given time a minimum of 2.45-million people are in situations of forced labour as a result of human trafficking. The United Nations has suggested that each year as many as 700,000 persons are trafficked across international borders. Similarly, the United States, in their annual report on trafficking in persons, has placed the number between 600,000 and 800,000 persons annually.

When we hear numbers in the millions, it is difficult for us to remember that each one represents a real life. Who are these trafficking victims? They are the marginalized and the disenfranchised — the most vulnerable persons in our society.

This is a crime that disproportionately affects women and children. They are the ones who routinely face the greatest legal, social, economic and political inequality around the world. Human trafficking is very much a crime that exploits inequity and is fuelled by the greed of its perpetrators.

Human trafficking exists in as many forms as its perpetrators can devise. The International Labour Organization estimates that 43 per cent of all labour extracted as a result of human trafficking involves commercial sexual exploitation, that 32 per cent involves economic exploitation, and that the remaining 25 per cent of persons trafficked into forced labour are subjected to both economical and commercial sexual exploitation or are trafficked for purposes that cannot be determined.

Those who are exploited in the sex industry are forced to provide sexual services in massage parlours, brothels or on the street. This area of forced labour is especially pronounced in industrialized countries where the sex industry is big business, exceeding \$12 billion a year.

Demand is at its greatest in the industrialized world. The ILO estimates that as much as 72 per cent of forced labour in industrialized countries is sexual exploitation.

Honourable senators, I recently spoke at a conference on human trafficking held by the European Women's Lobby in London, England. They focused on the demand side of trafficking

and were preoccupied with the way in which major sports and cultural events within the industrialized world have fuelled the trafficking of women and girls for sexual exploitation in the industrial world.

For instance, next year, when Germany hosts the World Cup of Soccer.in 2006, it is estimated that there will be an influx of 30,000 to 40,000 women in prostitution to the city of Cologne during a four-week period. An increase of this magnitude would almost certainly require women who have been trafficked.

Economic exploitation can include forced labour as a domestic worker in a private household or in the agricultural, construction, garment and food processing industries. It can also include forced begging or involvement in illicit activities such as couriering drugs.

[Translation]

In addition, the forms of labour and services which are extracted will vary depending on where in the world the person has been trafficked.

So, for example, forced labour involving commercial sexual exploitation is more prevalent in industrialized countries than it is in transition or developing economies where forced labour for economic exploitation is more common.

[English]

As well, in some parts of the world children are at risk of being trafficked as child soldiers. One need only think of the terrible practices of such groups as the Lord's Resistance Army, which operates in Northern Uganda and abducts children, forcing them to serve in their rebel army, to realize how far reaching the negative consequences of this crime are.

I met with some of the children who were abducted in Northern Uganda and later placed in detention centres in Gulu. The hardship to which they have been subjected is unimaginable. They have been brainwashed into harming their own families. They have cut off the lips or ears of their mothers and sisters. Today, they are in detention centres, as even their mothers and parents do not want them to return home.

Women and children are most often victims of this crime. It has been estimated that half of all victims of human trafficking are children — as many as 400,000 each year. The ILO report estimates that 98 per cent of those forced into commercial sexual exploitation are women and girls. Children who should be in schools and playing with their friends are instead subjected to terrible crimes that we can hardly comprehend. Women and girls also comprise 56 per cent of those forced into economic exploitation.

In a country that prides itself on its efforts to protect the vulnerable, these statistics are a clarion call to action. I believe, honourable senators, that Bill C-49 clearly answers that call and reflects the government's commitment to protecting the vulnerable.

[Translation]

Bill C-49 proposes to amend the Criminal Code to create three new indictable offences to better protect against human trafficking.

These new offences will more clearly define and denounce this criminal conduct and they will impose increased accountability on those who seek to perpetrate this crime.

[English]

Although it is our Canadian values that demand that we respond to human trafficking, we must always remember that Canada does not exist in a bubble. Canada is part of the international effort to combat human trafficking, of which Bill C-49 represents a significant part.

In particular, Bill C-49 is consistent with the comprehensive international framework in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Canada was one of the first countries to ratify the trafficking protocol, having done so in May 2002. Bill C-49 will enable Canada to remain among those countries that continue to demonstrate international leadership in the fight against this terrible crime.

Bill C-49's proposed main offence of trafficking in persons would specifically prohibit anyone from engaging in specified acts, including recruiting, transporting, harbouring or controlling the movements of another person for the purposes of exploiting or facilitating the exploitation of that person. This offence would carry a strong penalty of life imprisonment where the offence involves kidnapping, aggravated assault, aggravated sexual assault or the death of a victim. In all other cases, the penalty would be imprisonment for 14 years.

• (1600)

[Translation]

In addition to the main offence, Bill C-49 proposes the creation of a second indictable offence to deter those who would profit from the exploitation of others. This offence would specifically prohibit anyone from receiving a financial or material benefit knowing that it results from the trafficking of another person. This new offence would carry a maximum penalty of 10 years imprisonment.

[English]

It is very important that we include this offence. It addresses several key elements of human trafficking that may not be as obvious as those in the main offence but without which trafficking in persons would not be as widespread as it is now.

First, it enables law enforcement to better target those who would benefit from the crime of human trafficking even where they do not engage in the physical acts involved with trafficking.

Second, it goes to one of the main reasons that trafficking not only persists, but also that it is growing; namely, it is a major revenue generator. Indeed, recent international estimates put the profits from this activity in the billions of dollars, placing it among the top three money-makers for organized crime.

The final new offence proposed by Bill C-49 is also important because it addresses behaviour that is known to help perpetuate the crime of human trafficking. Traffickers often withhold or destroy the personal documents of their victims such as passports, visas and other identification. This is just another way in which the lives of victims are controlled and dominated by those who engage in this heinous crime.

The third office proposed by Bill C-49 would prohibit the withholding or destroying of travel or identity documents in order to commit or facilitate the trafficking of persons. This new offence would carry a maximum penalty of imprisonment for five years.

The offences proposed by Bill C-49 are an attempt to strike at the very root of human trafficking and the reason that it is so sickening — the exploitation of its victims. Perhaps more than anything else exploitation is at the heart of this criminal conduct. While it may be part of what we are talking about, human trafficking is more than just recruiting and moving individuals unlawfully; it is really all about engaging in that conduct for the purpose of exploiting the victim. It is exploitation from which those involved in human trafficking draw their profits, and it is exploitation of the victim that makes it such a deplorable activity.

To paraphrase the work of the European Union's Experts Group of Trafficking in Human Beings, it is the forced aspect of labour or services, including forced prostitution, which is the key element to the definition of trafficking as reflected in the trafficking protocol. I would say it is the key element of Bill C-49, and that, in my opinion, is especially welcomed.

"Exploitation" is defined in Bill C-49 to mean causing another person to provide or offer to provide labour or services by engaging in conduct that can reasonably be expected to cause that person to fear for their safety or someone known to them if they fail to provide labour or services. It also includes causing them, by means of deception or the use of threat of force or any other form of coercion, to have an organ or a tissue removed. This definition is broad, and rightly so, because we know that human trafficking can take many forms.

[Translation]

The proposed new offences would carry significant penalties — penalties that are not only consistent with the Criminal Code itself but that are also consistent with those enacted by other countries as part of their anti-trafficking legislation.

[English]

Human trafficking is, after all, a global program. As César Chelala, an international public health consultant, noted in yesterday's *Globe and Mail*:

Every year, thousands of Vietnamese women and girls are transported to China. Most are made to believe they will find good jobs and marriage prospects there. Once they reach China, however, many end up as beggars, forced labourers or prostitutes.

It is worth pausing again to note that Bill C-49 will not operate in a vacuum; it must be seen as part of a larger legislative framework that Canada has in place to protect persons from exploitation. For instance, in 2002, a specific trafficking in persons offence was created in the Immigration and Refugee Protection Act, or IRPA. This offence addresses human trafficking that involves organized, illegal cross-border entry of persons into Canada. The first charges under the IRPA trafficking in persons offence were laid in April of this year by the Royal Canadian Mounted Police against a Vancouver massage parlour owner.

Existing Criminal Code offences are also being used to address various acts often related to human trafficking, such as kidnapping, assault, sexual assault and offences involving organized crime. Bill C-49 supplements these provisions, ensuring that the various ways in which these crimes can be committed are properly addressed including, most notably, trafficking that occurs wholly within our borders.

In other words, Bill C-49 will provide police and prosecutors with welcome new tools to ensure that no matter what form human trafficking takes or for what purpose human trafficking occurs in Canada, our laws can fully and properly address this criminal conduct.

Human trafficking victims will also be able to benefit from other recent criminal law reforms. Bill C-2, An Act to amend the Criminal Code (protection of children and other vulnerable persons), received Royal Assent on July 20, 2005. It will be proclaimed into force on a date to be determined. This bill enacted criminal law reforms that seek to make the criminal justice process more sensitive to the realities of vulnerable victims.

[Translation]

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Honourable Senator Jaffer, I regret having to interrupt you, but the Blackberry mobile devices seem to be interfering with the sound system. I ask therefore that those senators currently using them to turn them off so that we can better hear the Honourable Senator Jaffer.

[English]

Senator Jaffer: As a result, trafficking victims may now be able to provide their testimony with the assistance of testimonial aids such as screens, closed-circuit televisions or with the assistance of support people.

[Translation]

Honourable senators, Bill C-49 is an important part of Canada's on-going efforts to combat human trafficking. Having said that, we know that legislative reforms alone cannot fully address the scourge that we know human trafficking to be.

[English]

That is why I am pleased to know that Bill C-49 is part of a broader Canadian initiative to prevent trafficking, to protect its victims and to prosecute the offenders. The Minister of Justice has

referred to this approach as the three Ps — prevent, protect and prosecute — dovetails with the international community's response to this crime.

The government has undertaken measures in support of the three Ps, including increasing public awareness through a website, posters and a pamphlet that is available in 14 languages and that has been widely distributed within Canada and abroad, through Canadian embassies, to warn persons who may be vulnerable to this form of criminal conduct.

The government has also supported public forums and professional training for law enforcement, again with a view to raising public and professional awareness of and responses to human trafficking.

I understand that the ongoing federal efforts to combat human trafficking continue to be coordinated by the Interdepartmental Working Group on Trafficking in Persons, which is co-chaired by the Departments of Justice and Foreign Affairs and is currently developing a federal anti-trafficking strategy.

• (1610)

In summary, I urge all honourable senators to support this bill. It will clearly and strongly denounce this crime, it will provide increased protection to vulnerable persons and it will increase accountability for those who engage in it.

Honourable senators, I believe that Bill C-49 affirms the fundamental values for which Canada is respected the world over. Those values are liberty, equality and justice. I hope that all honourable senators will join with me and strongly support the quick passage of this bill into law.

[Translation]

The Hon. the Acting Speaker: Would Senator Jaffer consent to a question?

Senator Jaffer: Of course.

[English]

Hon. Jerahmiel S. Grafstein: Honourable senators, I consider this to be an excellent bill. We, who have been active at the Organization for the Security and Economic Cooperation in Europe, which includes Canada and the United States, have been tracking this issue for over five years and we are delighted that our efforts and the efforts of the United Nations has finally brought this to fruition in this particular bill.

I have a couple of questions for the honourable senator about the bill to see whether or not the scope of the bill — not in terms of enforcement but in terms of protection — is adequate.

As honourable senators know, one problem with trafficking is that the victim becomes the double victim. Victims are brought into the process — a person, male or female, mostly female, sometimes with children, sometimes without — are trafficked from the four corners of the earth and the target market is

Europe, Canada or the United States. Somewhere between 15,000 and 20,000 people are trafficked through Canada every year. Obviously this bill not only deals with the international but also the domestic scope.

When a person — a woman in particular who is vulnerable and young — is dragged into this process, to break loose of this economic pipeline that she has been injected into, her personal protection is a problem. She is without papers and the question is this: If she challenges the system and those who put her into this bondage, into this slave trade, does this bill satisfy her needs in terms of protecting her, not only as a victim who will blow the whistle, in effect, but also ensure that she will be fairly treated under our immigration process once she is here?

Senator Jaffer: When I was at the European Women's Lobby, there was a lot of talk about the fact that in Europe, North America and Canada sometimes trafficking and migration are confused. I have had a number of these cases already. Under the Immigration Act and under our humanitarian and compassionate category in our immigration legislation we have been able to make a case for the women who get out of this bondage. However, there is a lot more work we can do. I am sure this will be explored in the committee. Besides it being explored in the committee, this is the first stage. It is the foundation. The next stage is, we must ensure that the women are protected under our immigration system.

Senator Grafstein: I am glad to hear that. I hope the committee will look at this issue and bring national and international evidence to bear, because the broad powers will not work if the women or children who are in the pipeline do not feel that they will be fully and completely protected as witnesses and in terms of their status. Without that protection, the broad powers will not work because of the confidentiality and fear that is injected into these victims.

I hope the government will be open to broaden this bill to provide adequate protection to those people who are victims. I am satisfied that the learned senator will make sure that this aspect is fully explored in the committee.

The University of Chicago had a seminar on this subject. It was excellent. I was one of the speakers there. I would be glad to send the honourable senator a copy of the speech that dealt with all these issues.

Senator Jaffer: I thank the honourable senator for that submission. It is not just of women who are trafficked but even, under our immigration bill, women who are brought here under the live-in care program. Also, women who come as mail order brides or for arranged marriages sometimes suffer a lot of abuses. Those are all of the challenges and this will help us look at the next steps.

Hon. Serge Joyal: Would the honourable senator entertain another question?

Senator Jaffer: Yes.

Senator Joyal: Honourable senators, I was one of those who thought that the infamous program of the exotic dancers was a shame on Canada's reputation. It occurs to me that most of those persons were recruited under the false pretext that they were coming to Canada to work in the hotel and tourism industries, and of course under the lure of high wages and even the prospect of getting married and establishing a family on a permanent basis in Canada. It is one of those horrendous initiatives whereby to meet the need of "labour markets," Canada was in fact complicit in the sex trade. Once they were in Canada, it was as if it were no longer anyone's responsibility to assume the plight of those women.

I hope, honourable senator, that the amendments brought to section 279.01 of the Criminal Code by this bill has wording broad enough to catch that awful program in its net. It should never have existed. If no Canadian women want to fill those jobs, there is a reason: It is because they feel shame in occupying those positions. Why should a foreign woman be mistreated for doing something that a Canadian woman does not want to do? They are brought here and left on their own and they fall into the blackmail of their employers.

I believe, honourable senators, that if Bill C-49 can answer the situation denounced by Senator Pépin in one of her Senators' Statements a year ago, I think that this bill must be supported wholeheartedly.

Senator Jaffer: We can learn from that situation and be humbled by what happened with exotic dancers. That kind of situation happens even in our country and we should not become complacent in thinking that it only happens elsewhere in the world.

One challenge women face in coming to our country is the points system we have, which is unequal. Sometimes the only way women can come into this country is through such terrible trafficking programs. Once this bill has been given consent in the future, we will have to look at how our Immigration Act is unequal when it comes to women.

Hon. Gerard A. Phalen: Honourable senators, I rise today to speak in support of Bill C-49, an Act to amend the Criminal Code (trafficking in persons).

The Hon. the Speaker: Before I give the floor to Senator Phalen, because this is the time for the second speech to be made at second reading, the normal procedure would be to look to the other side because there is a 45-minute time allocation for the second speech, which is not automatically given. It is only given to the second speaker. Usually when that happens we make a special arrangement and someone would rise to adjourn. We would then clarify that by consent and I could then see Senator Phalen.

Hon. Marjory LeBreton: Honourable senators, we agreed that we would allow Senator Phalen to speak on the proviso that Senator Andreychuk's 45 minutes would be preserved.

The Hon. the Speaker: It is agreed that I will go to Senator LeBreton for the adjournment afterwards.

Senator Phalen: Honourable senators, I would like to start out today by reciting a few verses of a poem that was published on the Internet by a poet named Munda, who has visited our glorious country.

Canada, oh Canada what hast thou done with me whenever I do close my eyes my heart is there with thee...

Golden fields of waving grain whisper a lullaby the sunset slowly fades away beyond your endless sky

Canada, oh Canada what hast thou done with me I feel thou whispers in my soul I wish to be with thee...

I see your children playing out on a frozen pond at snowball fights and slapping pucks a magic way beyond

Mem'ries of the days gone by engraved into my soul return to you I will some day it's always been my goal

Canada, oh Canada what hast thou done with me thou temptress of my craving heart I long to be with thee

• (1620)

This poem clearly shows the magnificent Canada that this visitor to our shores experienced. Unfortunately, not everyone who comes to Canada's shores is fortunate enough to see our country as such a wonderful place.

I would like now to read you a bit of a story that appeared in *Maclean's* magazine. It is one of the many such stories but seems to say it best. This story is of a young woman who came to Canada from Hungary a number of years ago.

This young woman, university educated but out of work, responded to an advertisement in a popular Budapest employment magazine. The ad said a Canadian family was looking for a Hungarian-speaking nanny. "I met with this woman in Budapest who said her company wanted to hire me," said Terri. "She knew exactly where to take the conversation. She asked me for information about my life, like what does my mom do and can we take her address in case of an emergency. I was very naive and open."

Upon her arrival in Toronto, Terri's job description changed dramatically. There was no nanny position. Instead, the diminutive redhead was whisked off to a west-end strip club and asked to perform risqué dances on stage and illegal acts in the VIP private rooms. Her employers took her passports and work permit so she could not leave the country and held back her tips

and wages, saying she owed them \$1600 a week for securing her employment. A bodyguard escorted Terri from the club to the hotel room she shared with other Eastern European women. She was fed nothing but egg salad sandwiches and raped by one of her bosses who threatened to harm her family in Budapest if she did not comply.

After six weeks of this existence, Terri ran away with the help of a strip club DJ and now works as a waitress while she waits to testify in court against one of her former bosses. "Do I live in fear," she asks? "Not anymore. Now I live with depression. My life has been taken away and I can never get it back."

This young woman, along with hundreds and perhaps thousands of others, has not experienced the same wonderful Canada as the poet I quoted earlier. That poem spoke to me because it beautifully describes the wonderful country that I have been fortunate enough to live in. I am sure Terri does not see this poem describing Canada the way she experienced it, and that, honourable senators, is why this legislation is so important.

Bill C-49 is a three-pronged approach to the horrific problem of trafficking in persons. The United Nations estimates that over 700,000 people, mostly women and children, are trafficked annually. Bill C-49 would prohibit anyone from exploiting or facilitating the exploitation of a person and would carry a maximum penalty of life imprisonment where it involves kidnapping, aggravated assault, sexual assault or death.

In Canada, there are virtually no reliable statistics on the problem, and the estimates vary from 800 people annually that the RCMP believe are trafficked into Canada to estimates from NGOs that up to 16,000 people are trafficked.

Regardless of the numbers, human trafficking starts in countries where people are desperate for economic opportunities. We as Canadians find it almost impossible to understand the vulnerability of people in poor and desperate countries. For instance, up to 400,000 Ukrainian women have been trafficked for sexual exploitation in the past decade. In the Ivory Coast, a girl can allegedly be bought as a slave for \$7, and a shipment of ten children from Mali for work on the cocoa plantation costs about \$420. Up to 90 per cent of girls in rural Albania do not go to school for fear of being abducted and sold into sexual servitude.

Criminal organizations charge these desperate people thousands of dollars to bring them into countries like Canada, often with promises of jobs that are not there. Instead, they get turned over to pimps in massage parlours, where they are expected to work off their debt. The methods employed by these traffickers to force victims into compliance range from confinement and beatings to threats to their families.

In other countries, like Nigeria, traffickers have gone so far as to force young women to swear oaths to repay debts to witch doctors who take a lock of their hair or toenail clipping and warn they will die if they break the oath.

Bill C-49 would also prohibit anyone from receiving financial or other material benefits resulting from the commission of a trafficking offence. Trafficking in human beings is so profitable that a 1999 report by the RCMP concluded that smuggling migrants is so lucrative in Canada that rival criminal gangs set aside their differences to share safe houses, illegal travel documents and ways of sneaking people into the country.

Smuggling people is more profitable than drugs. According to one UN immigration official, the situation is as follows:

We're seeing a global transition of organized criminals that deal in drugs and arms smuggling now turning to this new area of human smuggling. Some say the illegal immigrant business has become more attractive to syndicates because the penalties for human smuggling are less severe than those for drug trafficking.

The recently released United States Trafficking in Persons report says that according to the FBI human trafficking generates an estimated \$9.5 billion in annual revenue.

The third objective of Bill C-49 is to prohibit destroying or withholding documents such as identification or travel documents for the purpose of committing or facilitating trafficking.

In almost every case, step one for human traffickers is to withhold passports, visas or other travel documents. A recent federal intelligence study obtained by Canadian Press showed 12 per cent of people who arrive in Canada without proper documents are associated with a smuggler or escort. It is also interesting to note that in the year 2000, the RCMP seized 966 counterfeit travel documents with a street value of \$13 million.

Honourable senators, Bill C-49 is an excellent step towards punishing those who would traffic in human beings. The federal government website on trafficking in persons as well as the distribution in foreign missions and through NGOs abroad of anti-trafficking pamphlets and posters in up to 17 languages are also welcome steps in the battle against trafficking.

According to the 2005 U.S. report, the dangers of becoming a trafficking victim can lead vulnerable groups such as children and young women to go into hiding, with adverse effects on their schooling and family structure. The loss of education reduces their future economic opportunities and increases their vulnerability to be re-trafficked in the future. Victims who are able to return to their communities often find themselves stigmatized or ostracized. It is a vicious cycle.

That is why I believe the battle against this scourge of human trafficking must also include support for the victim. The RCMP says that only one in 10 victims of trafficking report the crime to the police. Without adequate processes in place to protect the trafficked victims, Canada will continue to see a low rate of victims reporting offenders.

Honourable senators, for one moment, put yourselves in the shoes of persons who have been trafficked into Canada and are being forced to work or prostitute themselves: They do not speak the language; their level of education may be almost non-existent; they have no family or social support structure; they may be physically or mentally abused; their loved ones back home are

threatened; and, they have been told that they will be deported if they report to the authorities. These poor souls probably even do not know how to take the local bus, yet our legal system counts on them reporting their traffickers.

Honourable senators, we need a victim-centred approach to the problem. Ironically, women who have been charged criminally for illegal immigration or prostitution are not eligible for refugee status in Canada.

• (1630)

It is my hope that our government will continue the good work of Bill C-49 by introducing a bill which contains provisions similar to those contained in the U.S. Trafficking Victims Protection Act. That act enables victims of trafficking who cooperate with law enforcement efforts to prosecute traffickers to apply for special victim visas and therefore receive refugee benefits including medical coverage, employment programs, cash assistance, counselling and legal assistance.

Honourable senators, I encourage you to support Bill C-49 and to continue the fight against human trafficking.

On motion of Senator Andreychuk, debate adjourned.

FOOD AND DRUGS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Jerahmiel S. Grafstein moved second reading of Bill S-42, to amend the Food and Drugs Act (clean drinking water).—(Honourable Senator Grafstein)

He said: Honourable senators, here we go again. Just over four years ago, Canadians awoke one morning to discover a wave of tragic events cascading across Canada, first in Walkerton, Ontario; then North Battleford, Saskatchewan; and then Charlottetown, Prince Edward Island. Clean drinking water became a national hot button item. Suddenly, the national media woke up and began to report local water advisories sprouting up in every region of the country, from Quebec to Newfoundland, Manitoba, Alberta, British Columbia, and the Aboriginal communities across the North and across Canada. Every region of Canada was affected. How could this be?

We were taught in school that Canada inherited and possessed the world's greatest supply of clear, fresh drinking water. Yet, we discovered that Canada's capacious fresh water, this precious resource and common heritage, was not only in danger but pollution was deteriorating our fresh water supply daily.

What to do when faced with a national public health crisis in every region of Canada based on our most precious commodity, drinking water? Just where was the national media? After a careful review, it became clear that this problem of drinking water had escaped national attention as bad water problems were reported locally. Drinking water was a local issue. The national media would rarely aggregate the numerous local drinking water problems, and it only did so after an outrageous incident that scorched public conscience across the country.

Unhealthy drinking water as a national crisis lurked and continues to lurk beneath the national media screen. After all, even though drinking water is the staple of the daily diet of each Canadian, and we are told by medical experts to drink at least eight glasses of clean drinking water a day, the crisis was undetected and uncovered.

National statistics were hard to find and harder to accumulate. The federal and provincial authorities and their many statistical based agencies did not coagulate or aggregate the scope of the drinking water problem or the cost to our public health budgets either municipally, provincially or federally. We could not dig out the information and put it all in one place.

Therefore, at the urging of our Aboriginal colleagues here in the Senate, I set about, as a senator from the region of Ontario, to study the problem. The results I discovered were surprising and of deep concern. In the process, I introduced Bill S-18, which is identical to Bill S-42 which is now before you, honourable senators.

The first reading of Bill S-18 took place back on February 20, 2001. Second reading was given, and the bill was referred to the Standing Senate Committee on Energy, Environment and Natural Resources on April 24, 2001. The committee reported the bill without amendment on May 10, 2001, all to the good. Then, on third reading, the bill was referred to the Standing Senate Committee on Legal and Constitutional Affairs on June 13, 2002, and then it died on the Order Paper.

I was told that the government would bring in a dynamic water policy to remedy this situation; that I should keep cool and await this new policy. Regretfully, honourable senators, that has not happened in four years.

As I said, Bill S-18 which was introduced four years ago, was identical to this current bill to amend, Bill S-42. I have reintroduced the amendment, and that is what I am speaking to today.

If honourable senators are interested in the historical background of this amendment, I would direct them to the *Hansard* debate on Bill S-18. They will see how little has changed in four years, except that public health has deteriorated.

The government of that day was against the measure. This was a remedial measure and, in its scope, it was simple and clinical. It was to amend the Food and Drugs Act by adding clean drinking water as an objective so that the federal agency already mandated to regulate drinking water in bottles, ice cubes and soft drinks, would also regulate community drinking systems.

Bill S-18 encountered delays in third reading by supporters of the government who were against the bill. A foremost advocate against the bill was our former colleague, the learned Dr. Morin, who articulately supported the government position, arguing in third reading that, in his medical opinion, since water did not contain nutrients, it could not be considered a food under the Food and Drugs Act. Thus, community drinking water, he argued, was beyond the scope of the Food and Drugs Act.

Shortly before he left the Senate, Senator Morin told me he would now support the bill if it were reintroduced. It was clear to me then, and it is clear to me now, that drinking water contains nutrients. I was so advised by doctors and scientists outside this chamber. Thus, the learned doctor's objection is not based on a scientific fact. Meanwhile, the damage to the health of thousands of Canadians in every region of the country has continued unabated.

The former government raised constitutional objections and, thus, the bill was referred to the Standing Senate Committee on Legal and Constitutional Affairs. The present government is also concerned about whether the bill would be considered an incursion into provincial jurisdiction.

It is clear that the federal government has regulatory oversight of water: bottled water, drinking water in National Parks, on planes, on trains and, of course, the water in all of our non-urban Aboriginal communities. In fact, the food and drug authorities, with the cooperation of the provinces, issued a voluntary drinking water guideline that is used by some of the provinces.

Mr. Justice O'Connor of Ontario, in his landmark report respecting the drinking water which was the subject of the Walkerton tragedy, clearly outlined the scope of the federal jurisdiction. No one challenged Mr. Justice O'Connor's constitutional view that the federal government had and has jurisdiction.

The federal government as well has an overriding responsibility under the Constitution to ensure matters of public health affecting the nation as a whole are addressed.

The government further objects that this bill might trigger additional federal costs to infrastructure associated with water treatment. The federal government's recent budgets already designate substantial allocation toward drinking water infrastructure for the provinces.

There is a long list of areas where the federal government makes frequent infrastructure investments in matters traditionally considered within the provincial scope of activities when it affects the health of Canadians or the economy of the country as a whole. The fact that the federal government could save billions in preventive health costs if community drinking water supplies were no longer a threat to the public health and to thousands of Canadians daily, is now, I believe, beyond question.

• (1640)

The government and the Senate did not agree with this measure when it was first introduced. The government's objections to the bill continue. Let me state what those objections are in a little more detail.

The Canadian Food Inspection Agency, CFIA, responsible for the regulatory enforcement of the Food and Drugs Act, would become responsible for inspecting community drinking water systems as defined in the amendment. The government's officials believe, however, that this would be an "incursion" into areas where the provinces and the territories are presently exercising their jurisdiction and that this might be criticized by them. Don't

you love the word "incursion" as an answer to bureaucratic inaction? The adoption of this bill by Parliament, it is argued, would jeopardize longstanding federal-provincial-territorial collaborative relationships in the area of drinking water quality.

The federal government, we are told, already has a water drinking strategy for First Nations. Additional regulations and compliance would be necessary, government officials argue. Of course, I agree. Now we have independent evidence that the current water drinking strategy for First Nations is just not working.

What has happened since Walkerton, Ontario, in 2002, and North Battleford, Saskatchewan? Let me quickly sum up the current situation.

While provinces have started to move on improving community drinking water by legislation and by investment, not one province, not one community, has fully implemented Mr. Justice O'Connor's 93 recommendations, especially water standards testing with daily right to information about safe drinking water in each of our communities across Canada — not in Ontario, not in any province, not in any territory. Provinces, always stretched for resources and left discretion, too often lag behind, absent public pressure for public health. Because of the lack of current statistics, there is little or no accountability or public pressure points to galvanize provincial action.

There is also no coherent correlation between bad drinking water and the impact on the health budgets in each province or territory. We can guess and put together statistical models, but we just do not know. I ask honourable senators, why have our health officials not correlated these water statistics?

Statistics Canada indicated that in the year 1999-2000, over 2,150 out of 100,000 children reported cases of giardiasis, a water drinking disease. It appears that even those numbers at that time were seriously underestimated.

In Alberta, one-quarter of drinking water contains traces of pesticide. In British Columbia, Sierra Legal recently issued a report entitled "Watering Down" concerning 28 waterborne disease breakouts in October 2003 and estimated that 10 per cent of British Columbia's water systems were under a boil water advisory. In 2002, Manitoba passed a Drinking Water Act. Since then, it was discovered that in the city of Winnipeg, the home of our former leader, there are concentrations of disinfectant by-products —

Senator Rompkey: The home of the Deputy Leader of the Opposition.

Senator Grafstein: Senator Stratton should listen to this. It was discovered that in the Winnipeg drinking water supply there are concentrations of disinfectant by-products considered to be carcinogenic. In Portage la Prairie, lead concentrates exceeded Canada's voluntary guidelines. I wonder sometimes if the increase in cancer in Manitoba, in Winnipeg, is directly related to bad drinking water. We do not know.

In New Brunswick and Quebec, particularly in rural Quebec, and throughout Newfoundland, particularly the outports, there continues to be a lack in maintaining even the minimum federal guidelines in a large number of communities. Many small communities across Canada regularly use boiled water for everyday use. Imagine, as I said in 2001, a woman with seven or eight children living in an outport in Newfoundland who has to boil her water every day to ensure that her children and family are safe and sound — in Canada, in the 21st century.

Regretfully, honourable senators, little has changed since my bill was introduced over four years ago in terms of substantive improvement. Yes, there have been improvements. Yes, the provinces have moved. However, we still have an invisible public health crisis. Canadians continue to drink unhealthy water daily in many communities and in every region across Canada.

The Americans, at least, passed their Clean Water Act back in 1972 to allow federal regulatory oversight of clean drinking water. Even the Americans did that. One positive outcome of the U.S. act is that U.S. citizens, by tapping into the U.S. federal government's website, can obtain the last water advisory in each community in every region across the United States. They can punch in their telephone numbers and regional code and find out the last water advisory in their community.

I believe, honourable senators, as my late mother taught me, that an ounce of prevention is worth a pound of cure. The cost to our public health is far outstripping the cost of prevention. Let us, as senators from each region of Canada, support this rather "septical" solution to one of Canada's greatest and invisible health hazards — bad drinking water.

Finally, honourable senators, let me turn to the evidence of Johanne Gélinas, Commissioner of the Environment and Sustainable Development, before the Standing Senate Committee on Energy, Environment and Natural Resources last week, on October 18, 2005. She is a member of the Auditor General's agency, thus an officer of Parliament. Let me quote some bullet points from her statement to that Senate committee:

One of the essentials of daily life is access to safe drinking water. In a country like ours, we all assume that the water we drink is of high quality.

But the truth is, in some areas where the federal government has responsibilities, not all Canadians can be sure their drinking water is safe. This includes the nearly a half million Canadians living in First Nations communities.

The government has known for years that an overwhelming majority of water systems in First Nations communities pose health risks. Between 1995 and 2003, almost \$2 billion was spent to build and operate drinking water and sewage systems on First Nations. Between 2003 and 2008, a further \$1.8 billion will be devoted to these projects.

Unless strong action is taken, it is unlikely that this money, including \$600 million invested in the First Nations Water Management Strategy, will result in safer drinking water in the future.

Those are her words.

The major problems include the lack of laws and regulations on drinking water in First Nations communities and inadequate support given to First Nations for operations and maintenance.

She says no regulations and no operations or maintenance. She continues:

The federal government is also responsible for making sure that drinking water is safe at federal sites, including military bases, national parks and federal facilities.

Guidelines produced by the federal government, in partnership with provinces and territories, set the mandatory standards for drinking water at these sites. Provinces also use these guidelines in different ways, ranging from general guidance to legally required standards.

We have a quilt work of regulatory practice across Canada on drinking water.

Although a sound process is in place to develop guidelines for allowable contaminant levels in drinking water, it takes too long to develop and update these guidelines.

The government has argued that we have voluntary guidelines. The problem is they are not kept up to date and they take too long to develop. Even the voluntary ones are not in place as fully as they should be.

A process that should take two or three years often takes four to eight years.

The question I have for honourable senators is this: What happens in between? Our public health, the health of our children, diminishes.

A backlog of guidelines on water contaminants may take 10 years to work through. This is not helped by a 20 per cent budget cut between 2002 and 2005 affecting the Health Canada unit tasked with developing the guidelines.

We have chopped back on even the budget for that.

Federal responsibility also includes passenger trains, aircraft and cruise ships that travel between provinces or internationally.

Health Canada inspects water on cruise ships and passenger trains, but not on an aircraft. This means that the Canadian travellers do not know for sure that the water used for drinking and food preparation on aircraft is safe.

In my five years as Commissioner of the Environment and Sustainable Development, I have seen uneven performance by the federal government in creating and implementing a sustainable development approach.

• (1650)

In response to her statement, Chief Phil Fontaine concurred and stated that at least 100 reservations had bad drinking water and were under a boil-water advisory.

Last week, another breakout of E. coli hit the province in the Kashechewan reserve in Northern Ontario. The federal government rushed to remedy the situation, shipping 26,000 litres of bottled water. The chief of that reserve is reported to have said that was not enough to reopen schools or even bathe the ill.

Let me quote briefly from yesterday's *The Globe and Mail*, from Dr. Murray Trussler, chief of staff at Weeneebayko General Hospital in Moose Factory, who is responsible for this particular reserve. There is somewhere between 1,200 and 1,900 people on this reserve; I am not sure of the numbers because they jump around.

The article states:

... because of the problems of E. coli, the level of chlorine in the water, which is routinely extremely high, had to be jacked up to "shock levels." This has aggravated skin diseases, which are endemic at Kashechewan.

Dr. Trussler is quoted as saying that high chlorine

just irritates and dries the skin further, so there is more itching and scratching, which just spreads things like scabies and impetigo.

Further, the article stated:

He said that he had examined children who, for more than a year, have had impetigo, a bacterial skin disease that can cause the formation of pustules and a thick yellow crust on skin, commonly on the face.

He also said that he had seen cases of gastroenteritis, probably due to E. coli, but this cannot be confirmed until testing is completed.

In Dr. Trussler's words:

We ran across a lady who reportedly had hepatitis A. This is a virus. We don't normally screen for that. When we do a water sample, we look at E. coli and coliform counts, but we don't look for viruses.

The article continues:

He said that when he asked about protecting people from hepatitis A, Ontario offered to provide 100,000 doses of a vaccine against it, but the federal government turned it down, saying there was no hepatitis A problem in Northern Canada.

The doctor responded:

This is absolute rubbish. There's 100 native communities in Canada currently under a boil-water advisory. Any time you are under a boil-water advisory, there's probability you are going to run into hepatitis A sooner or later.

Apparently, the reserve and many others have had boil-water advisories for over two years. Imagine — boil-water advisories on federal reserves for over two years.

Honourable senators will recall I gave this example of the Grassy Narrows reserve in Northern Ontario four years ago when I spoke up there. I discovered that women who lived on that reserve who wanted to have healthy babies decided they had to leave the reserve in Ontario in the 21st century because they were concerned that if they did not cleanse their wombs over a two- or three-year period, they would not have healthy babies.

I urge honourable senators to support this amendment on second reading to allow a Senate committee to examine the details, the cost benefits of a remedial measure, as soon as possible. The health of thousands of children and Canadians depends upon it.

I am delighted that the chair of the Standing Senate Committee on Energy, Environment and Natural Resources — our great colleague, Senator Banks — has already invited witnesses on the state of drinking water in Canada.

Honourable senators, is it not ironic that we can transport clean drinking water systems to stricken areas around the world but we still have not been able to solve the problem of bad drinking water across all regions of Canada, particularly in our own First Nation reserves? Is that not ironic?

I am indebted, honourable senators, to Sierra Legal Defence Fund, and the program on water issues at the Munk Centre for International Studies, Trinity College, University of Toronto and the Library of Parliament for their assistance in clarifying these issues for me. All the conclusions that I have stated in this speech are, of course, my own.

Honourable senators, I hope I have been able to convince you that there is a health crisis in each region of the country that each senator in this chamber represents. The onus, I believe, is now on officials of the government to disprove these startling statements of facts. Let us refer the bill quickly to a Senate committee as soon as possible and so we have an opportunity to get at the facts and, if we can, defuse this national health time bomb.

Let us get on with the job. I ask for your support in speedily approving this amendment on second reading, honourable senators.

Hon. Madeleine Plamondon: I would like to ask a question.

The Hon. the Speaker: Will you take a question, Senator Grafstein?

[Translation]

Senator Plamondon: Honourable senators, does Senator Grafstein believe that Canada should recognize safe drinking water as a human right, and not a commodity, that is something that must not be paid for? Should Canada recognize this as a universal human right?

[English]

Senator Grafstein: I thank the honourable senator for her question, if that is the question.

Senator Plamondon: That is the question. Do you recognize that Canada should say it is a human right instead of a commodity?

The Hon. the Speaker: I will give the senator the floor to respond.

Senator Grafstein: Honourable senator, I have been here for over 20 years now and I have been involved in one of the great constitutional debates of all time on the Charter of Human Rights. Frankly, it was an arduous and difficult decision to amend our Constitution to deal with rights. I am concerned at this time about remediating our existing law to clean up what I consider to be a serious health problem.

Yes, I believe that drinking water is a human right. Yes, I do not believe that drinking water is merely a commodity because we require it every day. Every Canadian requires eight glasses of clean drinking water every day to be healthy.

Having said all that, yes, I believe it is a human right. Yes, I do not believe it is a commodity. Our problem, honourable senators, is to convince the federal government and the provinces to address this problem in a quick, astute and cost-effective way.

We worry so much about the burgeoning health costs, but we increase them by not paying proper attention to preventing bad health. To my mind, this prevention would save money and, in those terms, make every Canadian entitled to what I consider to be their right, which is eight glasses of clean drinking water each and every day.

Senator Plamondon: I am glad that the honourable senator recognizes that clean drinking water is a human right, because Canada has not recognized it on the international scene.

Does the honourable senator think there should be an enquiry into the bottled water industry, which is owned by four major companies — Nestle, Pepsi Cola, Coke and Danone? Do you think it is appropriate for Canadians to buy water from a bottle when bottled water makes so much money for these companies?

Senator Grafstein: We are now getting into deep economics. The honourable senator is right. I find it amusing that we import bottled drinking water from Fiji.

I was at an event a couple of nights ago and there it was, Fiji water on the tables in Toronto — and Toronto drinking water is better than that water. We have good drinking water in Toronto.

The reason why the bottled water industry has accelerated so quickly in Canada is precisely because of these boil-water advisories. Honourable senators will recall that 30 years ago we took pride in the fact that we could drink water from our taps, while in Europe we had to drink bottled water. Today when we go to a restaurant, the first thing a server provides is a bottle of water, not a bottle of wine or a glass of scotch. The reason for growth in the bottled water industry has nothing to do with them but has everything to do with the lack of our right to protect our precious commodity.

• (1700)

Senator Plamondon: Is one goal of the bill to ensure fresh, potable tap water, or is the goal to expand the bottled water industry and export water to the Americans?

Senator Grafstein: Clearly, the amendment is to amend the Food and Drugs Act to include community drinking water under the definition provided under the Food and Drugs Act so that the federal regulatory authority will have regulatory oversight of community drinking water. This is not an attempt, either directly or indirectly, to invite provinces or municipalities to charge anything that they would normally do for water. This is not an attempt to help the bottled water industry; it is quite the opposite. When people turn on their taps at home in Newfoundland, Northern Quebec, Northern Ontario, Manitoba or British Columbia, they should have clean drinking water. That is a common right of Canadians.

Hon. Terry Stratton (Deputy Leader of the Opposition): Briefly, to clarify one point, the implication I here is that Winnipeg does not have safe drinking water. I would dispute that and say that it does have safe drinking water. I drink Winnipeg tap water all the time, not bottled water. Winnipeg has safe drinking water.

Senator Grafstein: Let us refer that to committee for determination.

On motion of Senator LeBreton, debate adjourned.

INEQUITIES OF VETERANS INDEPENDENCE PROGRAM

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Callbeck calling the attention of the Senate to the present inequities of the Veterans Independence Program.—(Honourable Senator Di Nino)

Hon. Consiglio Di Nino: Honourable senators, the inquiry of the Honourable Senator Callbeck has a great deal of merit. I have been talking to her about this issue over the past two to three weeks.

Last week, when I was unable to be in the house due to travelling with the Foreign Affairs committee, there was some confusion about whether a senator on this side was to speak to Senator Callbeck's inquiry. Apparently the item was not spoken to. However, I should like to speak to it, although I am not

prepared to do so today. Therefore, if it pleases the house, I would ask to rewind the clock so that the item is not dropped from the *Order Paper*. I will be prepared to speak to it next week.

Hon. Senators: Agreed.

On motion of Senator Di Nino, debate adjourned.

BUSINESS OF THE SENATE

Hon. Eymard G. Corbin: Honourable senators, the house has stood Item Nos. 17 and 26. They have both reached their fifteenth day so they are dropped from the *Order Paper*. Is that correct?

Hon. Bill Rompkey (Deputy Leader of the Government): Yes.

[Translation]

ROLE OF PUBLIC BROADCASTING

INQUIRY—DEBATE ADJOURNED

Hon. Marie-P. Poulin rose pursuant to notice of October 18, 2005:

That she will call the attention of the Senate to the issue of public broadcasting in Canada, with a view to initiating discussion on its role as a public trust.

She said: Honourable senators, I would like to draw to your attention the need for Canada to have a national public broadcasting system that is strong, vigorous, diversified and self-sufficient. In the aftermath of the CBC labour dispute, I feel this is an opportune time to discuss the future of the public radio and television networks — this is nothing new.

Since CBC — Radio Canada was created 70 years ago, public broadcasting has undergone more than one cycle of introspection. Changes have taken place, new policies have been adopted. Amendments were even made in the enabling legislation in 1991 in order to redefine our public broadcaster, but none of this occurred in a media context as exceptional as we see today.

• (1710)

We live in a time of the Internet, fibre optics, advanced technology, multiple channels and a vast industry of information and entertainment that is fundamentally changing culture as we know it.

My comments today do not appear out of the blue. These thoughts have been brewing for a number of years and the recent labour dispute at CBC crystallized them in the minds of Canadians. During the seven-week labour dispute, most Canadians in Ontario and in the western provinces could turn to private sector broadcasters, but some regions were kept in total silence, like the Arctic region, which depends entirely on the public radio and television network.

The dispute inspired a public relations professional from Calgary to write to me. He asked me a very important question and I will read it as it was sent to me:

[English]

Do you think the CBC will ever finally find its true place in the Canadian sun or just wither away in the glare of the growing multi-channel universe?

[Translation]

That is the question a good many Canadians are asking.

Let us look at the facts. Broadcasting has played a prominent role in Canada's history. The very first transatlantic wireless telegraphic signal from Cornwall, England, was received in Newfoundland in 1901. The following year, the first radio telegraphy station was set up in Glace Bay, Nova Scotia. In the 1920s, CN began providing a railway radio service and, under the CN Radio banner, produced the first national broadcast on July 1, 1927, for the diamond jubilee of Confederation. From these humble beginnings CBC/Radio-Canada was born and became a crown corporation in 1936. Over the years, the corporation has carved out an impressive journalistic, cultural and technological path.

Today, CBC/Radio-Canada brings Canadians together through its regional radio and television stations from Vancouver to St. John to Iqaluit, and through its affiliates, its eight national radio and television networks and its full-service Web sites.

CBC/Radio-Canada has formed alliances with other public broadcasters and provides specialized private services. For example, Radio-Canada is part of a consortium of public broadcasters providing French programming to the international Francophonie. This consortium is called TV5, as you may know.

CBC/Radio-Canada has therefore become an international communications giant, which is very good, because Canada is a vast country. We are the second largest country in the world, in terms of area, but we have a small population; of the approximately 32 million inhabitants, most live in the major urban centres and the rest are scattered over nearly 10 million square kilometres.

To put things in perspective, Canada has a population density of about three people per square kilometre compared to 29 in the United States and an amazing 387 in the Netherlands. So it is absolutely essential for Canadians to have a national public broadcasting system, if only to stay in touch with their own country, whether they live in Vancouver, Calgary, Sudbury, Chicoutimi, Moncton, Toronto or Montreal, and its existence in no way diminishes the role of private broadcasters and cable broadcasters operating in their own niche markets. They add variety to programming, but without duplicating the services provided by public broadcasters. They do not have the same mandate as CBC/Radio-Canada, nor can they provide the full range of daily television and radio information shows that must take into consideration regional, provincial, Canadian and international perspectives.

Although 60 per cent of Canadian households subscribe to cable television, many do not, whether by choice, because of the cost or because they live outside the areas serviced by cable providers. In other words, these people rely on traditional broadcast technology and, for the most part, the only television stations they can receive are the CBC and Radio-Canada.

Fortunately, CBC/Radio-Canada has, over the years, put in place a telecommunications structure of hundreds, if not thousands, of transmitters in order to reach the Canadian population with radio and television programming in French, English and eight Aboriginal languages.

Honourable senators, in a world where many of us can access radio and television with a little gadget that fits into the palm of our hand, the question is: does Canada need a public broadcasting system?

Solid social arguments have been used to justify its raison d'être since its inception in 1936. The public broadcasting system is the thread that links Canadians day in and day out. It provides an essential service to communities where private broadcasters would never survive, be it an anglophone community in the Gaspé or a francophone one in Edmonton.

This is a public service providing programming and journalism of the highest quality. The enabling legislation, the Broadcasting Act, sets this out clearly. It defines the very essence of the CBC/Radio-Canada: information, enlightenment and entertainment.

More specifically, one of the basic objectives required of CBC/Radio-Canada in its enabling legislation is to reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions. That is key objective that must never be lost sight of.

There are other essential aspects of the mandate of CBC/Radio-Canada included in its enabling legislation: to actively contribute to the flow and exchange of cultural expression and to contribute to shared national consciousness and identity.

Honourable senators, I feel that, in this era of globalization, it is more important than ever to value those objectives, to preserve those principles, and to translate them into quality radio and television programming in English and in French, thereby providing an essential public service to Canada.

Canada is at a turning point in its history, one where we need to be firmly anchored, knowing who we are, where we have been, and where we are going. Last week, Carole Taylor, former chair of the board of directors of CBC/Radio-Canada and now Minister of Finance in British Columbia, wrote the following in *The Globe and Mail*:

• (1720)

A public broadcaster must be relevant. It must be involved. It must not compete for ratings, it must compete for ideas. It must not get comfortable or self-satisfied. It must test, push, ask and listen to the voices of Canada. CBC/Radio-Canada must take risks and not be afraid of controversy.

Honourable senators, let us think about the key role CBC/Radio-Canada must play for future Canadians, immigrants who want to learn about their adopted country, about our history, customs, regional differences, sports, music, singers, our current events, political life, and so on.

Public radio must reflect the very essence of our identity. CBC/Radio-Canada must not only present our opinions and our values, but also make our voices heard in the international community.

Canadians deserve to be heard. We must make an effort to listen to them and find out what they think and what they do in their respective regions. CBC/Radio-Canada must do everything it can to promote the talent of our authors, performers and producers so that they can contribute fully to writing the history of Canada.

We must go back to a golden age when children's programming was so dearly appreciated: our future prime ministers, ministers, politicians, doctors and teachers were glued to those shows.

I am pleased to see that in the funds granted this year by the government, \$60 million is allocated expressly for this purpose and that the emphasis is on dramas, documentaries, and cultural and artistic programs.

However, we must consider new alliances with agencies such as the National Film Board, the National Arts Centre, our concert halls and our theatres throughout the country.

I am certain that Canadians will gladly welcome such initiatives even if it costs them a few extra dollars a year.

Honourable senators, the question is not whether can afford CBC/Radio-Canada, but whether we can afford to live without it.

Some Hon. Senators: Bravo!

Senator Poulin: This leads us to the question of the money required. In 2004-05, advertising and program sales brought in \$332 million, equal to about one-third of parliamentary appropriations (\$996 million), with the rest of CBC/Radio Canada's nearly \$1.4 billion coming from other sources.

Given my experience in both the private and public broadcasting sectors, I think there is a contradiction between the concept of being a public broadcaster and the fact that a large part of its revenue comes from commercial advertising. One possible solution would be the increased appropriation of public funds recommended by the House of Commons Finance Committee. I say this because the supporters of public broadcasting feel it is not merely a matter of money, or to put it another way, that the issue goes far beyond the \$30 that CBC/Radio Canada costs every Canadian annually.

It is interesting to revisit the results of a survey carried out in the spring of 2004 by the Friends of Public Broadcasting. It reports that 71 per cent of Canadians feel that the CBC is making good use of the taxpayers' money. As well, 85 per cent feel that CBC/Radio Canada helps distinguish Canada from the United States and that its regional role everywhere in the country should be broadened.

The federal government's responsibility to CBC/Radio Canada is to provide a legislative framework for its activities through enabling legislation and to allocate funds to it. The corporation's board has the responsibility for developing the strategy that will enable it to meet the objectives set out in that enabling legislation.

The key stakeholders however, in the end, are the people of Canada. It is their tax dollars that permit the very existence of a national public broadcasting system.

I would also point out that its national network of transmitters, stations and staff is what enables CBC/Radio Canada to play its pivotal role as far as national security and civil preparedness are concerned. The public broadcaster's signals are received even in the most remote reaches of Canada, and can therefore be used to alert and guide Canadians in the event of a disaster.

Honourable senators, CBC/Radio Canada is a public body which, throughout most of the 20th century, reigned as a symbol of our country. It reflected the dreams and ambitions of a growing nation.

Honourable senators, our country deserves to have a revitalized, strong and independent CBC/Radio Canada.

Hon. Senators: Hear, hear!

[English]

The Hon. the Speaker: Some senators are rising to put questions. Will you take questions, Senator Poulin?

Senator Poulin: I will.

The Hon. the Speaker: Are you requesting more time? You have one minute left.

Senator Poulin: Would my colleagues allow more time?

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Rompkey: Five minutes.

Senator Kinsella: Six minutes.

[Translation]

Hon. Roméo A. Dallaire: Millions of Canadians work and travel outside our borders.

For many years, I was one such example, and, often, we feel isolated from Canada because of a lack of communication by the media. I remember feeling cut off from Canada during my year at Harvard, in Boston. Communication from Canada, whether by satellite, cable or the newspapers, was non-existent.

As an entity, Radio Canada International plays a key role in keeping people travelling outside Canada informed about what is happening in Canada.

Radio Canada International should have a very specific role, in other words, to operate in the context of this public instrument of the Canadian government.

Senator Poulin: You are quite correct, Senator Dallaire. Currently, Radio Canada International broadcasts in over 25 languages around the world to bring Canada not only to Canadians living abroad but also to people who want to learn about Canada.

I briefly mentioned TV5. It would be wonderful if CBC could form a consortium in order to create an international English-language television station similar to TV5.

You are correct when you say that Radio Canada International plays a key role around the world.

(1730)

Hon. Jean Lapointe: Honourable senators, I must say that I quite enjoyed Senator Poulin's speech. If I understand correctly, she is in favour of increasing the budgets for CBC/Radio-Canada. I must say that I am totally against it.

As far as the CBC is concerned, I totally agree. However, for Radio-Canada, the hon. senator said she is prepared to increase the budgets, but Radio-Canada and RDI keep badgering us on a daily basis.

Take for example three or four of their shows, or the show *Tout le monde en parle*, where the two hosts are declared separatists and inveterate — or invertebrate, to use another term — indépendantistes and tried to find three Radio-Canada or RDI hosts who are not indépendantiste. If you can manage, then I will applaud you and agree with you, but I challenge you to name at least three.

There are very few federalists there and the indépendantistes do not hide their convictions, except for Mr. Maisonneuve. We know he has indépendantiste leanings, but he does not broadcast it. However, the court jester and his boss make no bones about it and invite like-minded guests.

If the honourable senator is prepared to give budgets and subsidies so that they can spit on Ottawa, on the Liberal Party in particular, and others — they are anti-federalist through and through — I am sorry, but I am totally against it.

I know we do not have the authority to increase budgets in the Senate, but I think we have the means to decrease them and that is what I will aim to do.

Senator Poulin: I thank Senator Lapointe for his question. I think it is extraordinary that he has just showed us through his speech that we will be having a very interesting debate on the issue of public broadcasting. I cited the enabling legislation many times in order to remind us of the mandate and to remind the board of directors of its responsibility.

Hon. Pierrette Ringuette: Honourable senators, Senator Lapointe has raised a good point about the mandate. Employees must comply with this mandate.

The mandate reads: "contribute to shared national consciousness and identity". So there is a mandate. We must note, however, that this mandate was amended in the 1980s. I think that Senator Poulin is an expert in public broadcasting and that she can no doubt explain the changes to the mandate and how it relates to Senator Lapointe's question.

Senator Poulin: Honourable senators, when I was preparing my remarks today, I researched the enabling statutes. I noted that there had been an evolution or a change in the wording used in legislation. You are correct in saying that, since 1991, section 3(m)(x) reads: "contribute to shared national consciousness and identity", whereas in the enabling statute of 1985, prior to being amended, section 3(g)(iv) read: "contribute to the development of national unity and provide for a continuing expression of Canadian identity".

Honourable senators, we would have to know what the intentions were when the changes to the legislation were introduced. This would require a reading of the speeches given in the House of Commons and in the Senate, as well as some thorough research in order to understand properly. It is, however, still the responsibility of CBC/Radio-Canada and its board of governors to meet these objectives, which are so clearly set out in the enabling legislation of 1991.

The Hon. the Speaker: I am sorry, Senator Poulin, but your time is up.

On motion of Senator LeBreton, debate adjourned.

[English]

THE SENATE

MOTION TO URGE GOVERNMENT TO ALLEVIATE HIGH FUEL COSTS—DEBATE ADJOURNED

Hon. Noël A. Kinsella (Leader of the Opposition), pursuant to notice of September 28, 2005, moved:

That the Senate urge the government to implement assistance through the tax system to ensure that excessive fuel costs are not an impediment for Canadians travelling to and from their place of employment, including a personal travel tax exemption of \$1,000;

That the Senate urge the government to take measures to ensure that rising residential heating costs do not unduly burden low and modest income earners this winter and in winters to come;

That the Senate urge the government to encourage the use of public transit through the introduction of a tax deduction for monthly or annual transit passes; and

That a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.

He said: Honourable senators, I moved this motion standing in my name at a previous sitting. I would like to canvass the house on support for this motion. If I see support for this motion from the house, it would not be necessary for me to use the 45 minutes to which I am entitled. We would have to not see the clock. Therefore, in the spirit of the last debate on the other item, I would be happy to call the question. However, I do not want to risk the opportunity of sharing with honourable senators some thoughts of explication as to why this motion is a solid motion that all senators ought to embrace. In the motion, the Senate is inviting the government to do three things.

Honourable senators, we all know what has happened with energy prices over the past little while and energy prices represent a real hardship to many Canadians, notwithstanding their economic situation. Throughout much of our nation, service stations were already asking \$1 per litre in the days before Hurricane Katrina struck. Late last spring, the cost of furnace oil was already 27 per cent higher than the previous year.

The government's response has been far from adequate. The Minister of Finance, unfortunately, is content to collect tens of millions of dollars in GST each time gasoline prices go up by a cent but is reluctant to ease the financial pain that many are suffering.

It was interesting for senators who have been on parliamentary delegations to notice the price of gasoline per litre on the continent in Europe. There used to be a large spread between what we pay for a litre in Canada and what we considered to be the high price paid for a litre of gas in Europe. Now that spread has narrowed and, unsatisfactorily, we are paying almost the same amount.

In this motion, the Senate urges the government to do three things. First, implement assistance through the tax system to ensure that excessive fuel costs are not an impediment for Canadians travelling to and from their place of employment, including a personal travel tax exemption of \$1,000. I would have brought in a bill, but of course that would have required a Royal Recommendation because it would have been a money bill.

• (1740)

Therefore, we have to bring forward a motion calling upon the government to introduce a bill that would give a \$1,000 exemption in addition to our basic personal exemption. The reason for doing that is to compensate the increased costs of people travelling to and from work. All honourable senators know of Canadians who do not live close to their place of work. Often the place of work is in urban centres but the cost of living in urban centres is too expensive for people who are earning near or slightly above minimum wage levels. Therefore, if they have to travel farther to work and they are making marginal wages, their need for assistance to get to work in their car is absolutely critical. It would have the effect of using the Income Tax Act to provide some compensation for this increase in fuel costs.

The second element is to take measures to ensure that rising residential heating costs do not unduly burden low- and modest-income earners this winter and in winters to come.

The third element of the motion is that we are calling upon the government to encourage the use of public transit through the introduction of a tax deduction for monthly or annual transit passes.

The motion also calls for a message to be sent to the House of Commons requesting that the House unite with the Senate for that purpose.

I moved this motion because in the past several months we have witnessed sharply rising energy costs that are having a real impact on individual Canadians as they go about their daily business of living, working and raising a family in a northern country where 32 million people populate the world's second largest land mass.

As to a response, the government recently announced its own package — a package without vision that falls far short of providing meaningful relief from high heating costs, offsetting the impact of gasoline prices on working Canadians and their families, or encouraging Canadians to make greater use of public transit. The government's response boils down to three communication bullets.

The first is assistance to low-income earners that, unfortunately, benefits far too few, excludes some of the poorest among us and offers nothing to modest-income Canadians.

The second concerns assistance to make homes more energy efficient and fast-tracking money already announced for public transit. The program to make homes energy efficient comes with a catch, of course. Many Canadians, especially those with low and modest incomes, may not be able to afford a new energy efficient furnace, even with a government grant, after they finish paying off this year's heating bill.

Is the government asking Parliament, through Bill C-66, to appropriate a five-year block of funds for this program because a great rush of people is not expected to use it this winter?

Part of the solution, honourable senators, is to encourage more Canadians to use public transit, and a tax credit for public transit would be a positive way to encourage more Canadians to use that service. I will speak to this shortly.

However, honourable senators may wish to take note of one indirect result of the announcement that the money set aside for transit in the NDP budget would be advanced. The government will now be in a position to make a string of announcements this March without waiting to see if the surplus conditions of Bill C-48 have been met. Would I be cynical to wonder if the real goal is not to advance the development of public transit but to speed up the development of photo opportunities in the pre-writ period?

Third, there are measures that the government describes as "enhancing market transparency and accountability" — a wonderful phrase. I will resist the temptation to spend the next 20 minutes reminding the chamber of this government's complete aversion to transparency and accountability. This transparency and accountability media bullet boils down to beefing up fines under the Competition Act, even though there has never been a

successful prosecution under that law, and setting up a government agency to monitor prices and profit margins. This new agency is already being widely criticized as being somewhat toothless.

I will not hold my breath waiting for any of these measures to reduce prices, and I doubt that anyone on the government side will, either. Exactly how will this new agency deal with the two main factors that have driven up gasoline prices in the past year?

First, the world price of crude will not fall because some Canadian government agency is monitoring prices at the pump. Second, this new monitoring office will do nothing to address the lack of refinery capacity, the major cause of the sharp spike following Katrina. Simply, gas prices will not fall because some government agency posts them on a website. If you want to regulate the industry and accept the costs that come with regulation, that is fine. Go out and do it, but good luck getting the provinces onside, and good luck avoiding the kind of meltdown that followed the National Energy Program, the very mention of which still makes the blood of Western Canadians boil, a quarter of a century later. Moreover, this new agency will not reduce the federal government's take at the pump, which is currently about 17 cents per litre, or end the practice of imposing a tax on the tax.

If the objective of this agency is somehow to shame the oil companies into lowering their prices, perhaps it could publish regular figures on the government's fear of the price at the pump and shame the government itself into helping modest-income Canadians cope.

Against the background of the government's sudden urge to monitor fuel prices, we have seen its own members setting out a vision, not of energy prices that are affordable to low- and modest-income Canadians but of even higher prices. The Calgary Herald of August 24, 2005, has Environment Minister Stephane Dionne saying that high gas prices are actually good for Canada in the medium and long term. From the August 17 Hamilton Spectator we have a quote by then Natural Resources Minister John Efford saying that people have to become accustomed to the high cost of fuel.

This vision of rising energy prices comes from the government side, and it extends to the back benches. From the *Toronto Sun* of September 11 we have the Ajax Pickering Member of Parliament Mr. Holland saying:

This has had a major impact on people, but we have to realize the days of cheap oil, for the most part, are a thing of the past... A lot of analysts say gas at a \$1.50 a litre is well within sight.

Honourable senators, what is my case for proposing income tax relief? The Toronto-area cabinet minister John Godfrey was quoted by the *National Post* of September 8, 2005, as saying that the solution to soaring gas prices is more public transit.

More public transit is part of the solution, and I will make the case for a tax credit for transit passes shortly. However, I will not pretend for one minute that public transit will fill the fuel tanks of

the independent truckers who haul lumber from the B.C. interior to Vancouver, or auto parts from Brampton to Oshawa, and milk from the dairies in the Eastern Townships to grocery stores in Montreal. I will not pretend it will help prairie farmers fuel their combines this fall and bring their grain to market. I will not pretend for one minute that it will get Mary MacDonald from her farm near Skinner's Pond to her medical appointment in Charlottetown.

Does this government care one iota about the damage that soaring fuel prices are inflicting on truckers and rural Canadians? In *The Toronto Star* of September 24, we have the same Mr. Godfrey stating:

The only way were going to get ahead of the curve is a combination of offering people decent public transit and encouraging them to live in developed places which are close to that transit in a much more compact form.

• (1750)

Is that the government's answer to rural Canadians who have no transportation choices other than their car; move to Toronto and live in a more compact form? I would hope not.

Honourable senators, the impact on ordinary Canadians is real. Not all Canadians live in Toronto or want to live in Toronto. Even those who live in larger cities rely heavily upon their cars as they go about their daily business of raising a family.

Consider for a moment Joe LeBlanc, who lives about 30 kilometres outside of Moncton, New Brunswick. He used to be a full-time farmer, but he could not make ends meet, so he continues every day to work in Moncton and does his best to farm on the weekend with a bit of help from his spouse. Public transit is not now and never will be an option for Joe, for the same reason as it is not an option for most rural residents. There will never be enough passengers to cover the tiniest fraction of the costs of servicing areas where houses are half a mile apart.

We will not talk about the fuel Joe uses on his farm, but it is also costing him considerably more than in the past. Joe puts 60 kilometres on his car per day driving to work each day, every day. His employer is open until 6 p.m. to service customers, so Joe's hours of work do not give him the option of carpooling with neighbours who finish work an hour earlier.

Sixty kilometres per day is 300 kilometres per week. He burns about 10 litres of gas every 100 kilometres, or 30 litres per week. Joe is paying about 20 cents a litre more for gas than he did a few years ago. That translates into an extra \$6 a week if Joe works 48 weeks. That extra \$6 a week is going to cost him an extra \$288 per year. At a dollar a litre, Joe is spending \$1,440 a year in gas to get to and from work.

This scenario does not even begin to include all of the other driving that is done when you live in a rural community. The local Sobeys or Co-op is probably 10 miles away. You may have to go to more than one town to get everything on your list. Your teenagers cannot bus to the mall; you have to drive them. If your child becomes ill at school, it may be a 30-minute drive to get her.

The LeBlanc family probably does as much driving after work and on weekends as Mr. LeBlanc does driving into work. An extra 20 cents a litre in gas prices will probably cost them at least \$500 per year, part of an overall gas bill that is likely to exceed \$3,000. My friend Joe is being squeezed by an uncaring government that has no concern for modest income working families in rural Canada.

This may come as a shock to the Minister of Infrastructure and to the Minister of the Environment, but even those living in urban areas with access to public transit still need to use their car. It is not uncommon for a commuter to get off a bus at the end of the work day and then spend their evening and weekends using their cars to go about the business of being responsible parents.

Consider the example of the Smith family here in Ottawa, the nation's fourth largest urban centre and a city that is better served by public transit than many smaller communities. Let us suppose that the Smiths begin to take the bus to their jobs in downtown Ottawa.

Honourable senators, busing to work during rush hour is one thing; getting the Smith children to Guides, Scouts, piano lessons and hockey practice on evenings and weekends is another matter entirely. You need a car because you cannot be in two places at the same time. They need a car if the Smith children want to have a sit-down supper with the family or get to bed at a decent hour on activity nights because there are not enough hours in an evening to do it any other way.

Mr. Smith drives his daughter to skating lessons because if he did not, it would be impossible to pick up his son from a hockey practice scheduled for the same time five miles away in a different direction.

On weekends the Smiths drive to their place of worship, which is several miles away. I do not think that even the Minister of Infrastructure would expect the Smiths to convert to another faith so that their place of worship aligns with the local bus service.

Mr. Smith is finishing the basement so that the Smith children can have their own space in the house, and that means trips to Home Depot or Rona for building materials, and you need a car to carry them home. Drywall does not travel particularly well by bus.

It is not terribly practical to transport a week's worth of groceries for a family of four by bus. Once a week Ms. Smith has a ladies' night out with her friends, and like many women, she does not feel comfortable about waiting for a bus at midnight. I do not blame her.

Ms. Smith's mother lives outside the city and is in failing health, so she drives a fair bit each week to see her and do what she can to help.

The bottom line, honourable senators, is that even though they take the bus to work, the Smith family still puts another 20,000 kilometres on the family vehicle each year, every year. They burn about 10 litres of gasoline for every 100 kilometres and

2,000 litres per year. Assuming that gas settles in the range of a dollar a litre, that is \$2,000 per year in fuel costs. An extra 20 cents at the pump translates into an extra \$400 per year for this modest income family even though they bus to work.

The federal government has no problem taxing gasoline but has serious problems when asked to reduce those taxes or to at least stop the practice of putting a tax on a tax or to provide income tax relief to offset those higher prices.

Honourable senators, higher energy costs are crushing modest income Canadians, the very people on whose backs the government built its string of surpluses. They have more than paid their dues to a government that has no desire to help them cope with rising fuel costs and that evaluates proposals in the context of how many photo opportunities it may generate.

Canadians are already hard-pressed and falling deeper into debt. The growing cost of gasoline, the growing cost of heating their homes and the expected hike in mortgage rates will combine to deal a major blow to many modest income Canadian families.

Indeed, the Conference Board of Canada reported last month that soaring energy prices and interest rate fears were already rattling consumer confidence. Faced with the challenge of meeting these costs, many Canadians will spend less on other things and postpone major purchases.

Too many low and modest income Canadians are already stretched too thin. We cannot do anything about the world price of oil, but we can help to offset this by using tax relief to restore lost purchasing power.

There is a case to be made for heating cost relief, and I am sure that other honourable senators who participate in this debate will speak to that issue.

The case for public transit passes is an easy one to make, particularly for the major urban areas.

Honourable senators, the motion before this chamber is a very reasonable request. We are proposing that this honourable house ask the government to deal in an upfront way with the crisis we are experiencing as a result of increased gas prices.

In conclusion, honourable senators, the current government has been in office for a dozen years but has yet to provide a comprehensive Canadian energy framework. It has become very clear that it does not care about modest income Canadians as they struggle to cope with rising energy costs. The best this government can offer is an ad hoc approach based more on an eye for media relations than on any real desire to find solutions. It is time to stand up for the interests of modest income Canadians as they face the increased cost of higher heating and gasoline bills.

In fact, when the average Canadian consumer of oil, the person who uses it to fill their gas tank to drive to work and to heat their home during the winter, pays excessive prices at the pump, it is because this government's policy of gorging them is allowed to continue.

Canada's Kyoto Protocol commitment, without a workable plan that outlines clear initiatives to find cheaper and cleaner forms of fuel that would replace the millions of barrels of oil that we use daily to run our cars, heat our houses and create electricity, needs to be ratcheted up.

• (1800)

The government has earmarked money, allowing it to boast about how much it plans to spend over the next few years on the environment. It has yet to map out a strategy —

[Translation]

The Hon. the Acting Speaker: Honourable senators, I now see that it is 6 p.m. Unless there is agreement for the Speaker not to see the clock, I must leave the chair and come back at 8 p.m. Is there agreement?

[English]

Hon. Bill Rompkey (Deputy Leader of the Government): There is agreement not to see the clock, Your Honour.

Senator Kinsella: Honourable senators, I urge the Senate to support this motion that would send a clear message that this chamber believes in tax relief to help Canadian families cope with higher energy costs and adequate measures to ensure that

Canadians can afford to heat their homes, not just this winter but in winters to come. The motion also states that this chamber believes that positive incentives such as tax credits for transit passes ought to be used to encourage greater use of public transit.

On motion of Senator Rompkey, debate adjourned.

CONFLICT OF INTEREST FOR SENATORS

COMMITTEE AUTHORIZED TO ENGAGE SERVICES

Hon. Serge Joyal, pursuant to notice of October 20, 2005, moved:

That the Standing Senate Committee on Conflict of Interest for Senators have power to engage the services of such counsel and technical, clerical, and other personnel as may be necessary for the purpose of its examination and consideration of such matters as are referred to it by the Senate, or which come before it as per the Conflict of Interest Code for Senators.

Motion agreed to.

The Senate adjourned until Wednesday, October 26, 2005, at 1:30 p.m.

CANADIAN BROADCASTING CORPORATION

Appendix

	Start Date	End Date	Conder	Province	Language	ma
President (Full-time) Rabinovitch, Robert	Appointed by the GiC for a period not exceeding five years, during good behaviour, digible for reappointment 22-Nov-2004 21-Nov-2007 Maie Ont. English (75-Nov-1999) (21-Nov-2004)	perfod not exceeding 21-Nov-2007 (21-Nov-2004)	ive years, during g Male	pod behaviour, ofigib Oint,	ate for reappointment. English	©.
	1 President + 1 Chairperson + 10 Other Members = 12 Total Members	Board of Directors on + 10 Other Men	abers = 2			
	Quorum: Ma	Quorum: Majority of current members	members			
	Start Date	End Date	Gender	Pravince	Languade	Term
President (Full-time)	Appointed by the GiC for a period not exceeding live years, duning good beliaviour, eignine for leapton in man,	period not exceeding	iive years, dunng c		English	£73
Kabilibrical, Nabel	(15-Nov-1999)	(21-Nov-2004)			\$	
Chairperson (Part-time)	Appointed by the GiC, during good behaviour; for a period not exceeding five years; eligible for reappointment	ig good behaviour; fo	a period not excer	eding five years; elig	ible for reappointment	
Fournier, Guy	04-Dct-2005	03-Oct-2010	Male	Que.	French	v
Members (Part-time)	Appointed by the GiC, during good behaviour; for a period not exceeding five years; consecutive terms	ng good behavlour; fol	a period not excer	eding five years; elig	eligible to hold office for two	õ
Brunet, Johanne	21-Apr.2005	20-Apr-2008	Female	Oue.	French	hor
Christmas, Bernd	10-Feb-2005	09-Feb-2008	N N	Ø Z	English	ę~~
Fortin, Hélène F.	25-Feb-2003	24-Feb-2008	Female	Oue	French	4
Hermdorf, Peter	10-Feb-2002	09-Feb-2010	Male	Ê	English	3
Jivray, Yasmin	24.Apr-2005	20-Apr-2008	Female	Ath	English	÷
Khostowshaft, Nezhat	10.Feb.2005	09-Feb-2008	Fernale	Q 20	English	<i>4</i>
+ McNuft, Howard	24-Sep-2002	23-Sep-2005	Male	vi Z	usiiou Eu	gw.
McQueen, Trina	10-Feb-2005	09-Feb-2010	Fernale	ð	English	V
Sahi, K. (Rai)	21-Apr-2003	20-Apr-2008	Male	Out	English	4
VACANT						

CURRENT VACANCIES: 1

* UPCOMING VACANCIES IN THE NEXT SIX MONTHS: 0

+ POSITIONS TO FILL TO REPLACE TRUSTEES WHO SERVE AFTER EXPIRY OF TERM:

If a director is not appointed to take office on the expiration of the term of an incumbent director, the incumbent director continues in office until a successor is appointed.

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20 October 2005

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CANADIAN BROADCASTING CORPORATION

Previous Mandates	Previou	Previous Position		Start Date	End Data		
Fournier, Guy	Member	Member (Part-time)			03-Oct-2005		

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		Fernales: 5	4 5%	Ontario: 4	36%	Francophones; 3	22
				Quebec: 3	27%		
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Profile of Canadian Population:	ion:						
Population: 31,74	31,747,670	Males:	49.5 %	North/West:	30.2 %	Anglophones;	5
		Females:	50.5 %	Ontario;	38.7 %	Francophones:	8
				Ouebec:	23.7 %	Allophones:	å
				Attantic;	7.4%		

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CANADA

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OFFICIAL REPORT (HANSARD)

Wednesday, October 26, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

CONTENTS

(Daily index of proceedings appears at back of this issue).



THE SENATE

Wednesday, October 26, 2005

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

ALBERTA

CONGRATULATIONS TO RECIPIENTS OF CENTENNIAL MEDAL

Hon. Joyce Fairbairn: Honourable senators, last Saturday I had the honour of presenting the Centennial Medal to 23 southern Albertans, recognizing the special contributions of individuals to their fellow citizens and their province. The recipients were: Surya Acharya, research scientist, President of the Southern Alberta Ethnic Association; Ed Bayly, outstanding actor, director, playwright, singer, theatre manager; John Boras, lawyer, civic politician and community activist; Gordon Campbell, educator, leader in public affairs; Van Christou, brilliant photographer, promoter of the University of Lethbridge; Dr. E. Lisabeth Donaldson, professor and producer of a centennial book on educational advancement of Alberta women; Alister Gilchrist, long-time leading piper and loyal member, Royal Canadian Legion, General Stewart Branch No. 4; Frank Gnandt, 26 years as a music teacher and leader of award-winning Lethbridge Collegiate Institute High School choirs; Dr. Robert Hironaka, renowned animal scientist and promoter of the Japanese-Canadian culture; Dianne King, educational leader and the first woman school board president; Gerri Manyfingers, advocate for social justice on the Blood Reserve and urban centres for abused women in Calgary; Marie Smallface Marule, President of Red Crow College on the Blood Reserve and winner of the 1995 National Aboriginal Achievement Award for Education; Trevor Panczak, award-winning young Magrath country singer and supporter of numerous health and social causes; Joanne Perlich, founder and first President of the Lethbridge Handicapped Riding Association; Ernie Patterson, over 40 years of service on Claresholm Council, politician and vigorous supporter of rural communities; Dave Poulsen, outstanding rodeo announcer, author of 17 books, and promoter of childhood education; Ric Swihart, for over 35 years a highly respected agriculture and business reporter and editor at the Lethbridge Herald; Sharon Tennant, tireless proponent of higher education for all and dedicated supporter for persons with disabilities; Ron Watmough, long-time journalist and crusader for the protection of domestic animals and the No Kill Alliance; Doris Wichers, prominent leader in the family restaurant business and promoter of local activities; and, Monica Wilson, legendary barrel racer and champion of equal rights and opportunities for women in Canadian rodeo.

Honourable senators, I am very proud of all these people who have changed our communities through their vision and success.

THE LATE ROSA PARKS

Hon. Donald H. Oliver: Honourable senators, I am pleased to rise today to pay tribute to a civil rights icon, Rosa Parks, who died Monday at her home in Detroit at age 92. She is known by many different names. Some call her the mother of the movement that led to the dismantling of institutionalized segregation in the South. Others say she was the Alabama seamstress whose simple act of defiance on a segregated Montgomery bus in 1955 stirred the non-violent protest of the modern civil rights movement. Others say her arrest for violating Alabama's bus segregation laws galvanized Montgomery's Blacks who boycotted the city's buses for 381 days until the U.S. Supreme Court declared the law unconstitutional.

Honourable senators, these are magnanimous achievements. As one American politician said, "Her legacy was her quiet dignity and instinctive rage against injustice."

Honourable senators, the Montgomery boycott succeeded beyond the wildest dreams of its planners. What was planned as a one-day action stretched into a year and two weeks. The boycott nearly bankrupted Montgomery's public transit system, which depended on Black riders for as much as two thirds of its revenue. It also sorely tested the ingenuity and tenacity of Black Montgomery residents, few of whom owned cars. Those who did own them were pressed into service to power an elaborate ad hoc system of carpooling and private cabs. Parks, who had lost her job as a seamstress, served as a dispatcher.

Honourable senators, at this time, a young man by the name of Martin Luther King was a 26-year-old minister of Dexter Avenue Baptist Church, and the Parks incident catapulted him into international prominence. I heard Martin Luther King preach in Toronto at a World Baptist Youth Conference in 1956. He is one of the many influences that have encouraged me to fight for equality rights for all.

Honourable senators, the work of Rosa Parks will long be remembered for the magnificent influence it had on civil rights and human rights movements throughout North America.

[Translation]

COLD LAKE WOMEN'S CONFERENCE

Hon. Lucie Pépin: Honourable senators, it was with great pleasure that I travelled to the military base in Cold Lake, Alberta, last weekend. During my visit, I talked with many of the people who work and live there. I was also the keynote speaker at the opening of the Cold Lake Women's Conference held on October 22.

On that date, a number of women from the region gathered at the Medley Community Centre for a day-long conference, the theme of which was Celebrating Today's Women — You've Come a Long Way. The participants also divided up into small groups to take part in workshops on a variety of themes

including health, recreation, physical activity, leadership and non-traditional roles. This conference was a time to share, reflect and enjoy.

The participants came from all over northeastern Alberta and from sometimes very different environments. However, many of them are spouses of military personnel serving at the Cold Lake base. This shared reality shaped our discussions and set the tone for more than one exchange of ideas.

I found it particularly appropriate to attend a women's conference at Cold Lake because October is Women's History Month. This year's theme is Women and War: Contributions and Consequences. The Canadian government wanted to showcase the role of Canadian women in times of war and peacemaking.

• (1340)

Active members of the Canadian Forces are not the only ones making a contribution in this area; there are also the women who provide our soldiers with the steadfast support they need. Without having actually joined the army, military spouses wear the "invisible uniform". Their lifestyles are shaped to a large extent by the military environment. We do not talk about them much, but they are there, standing proud and true.

I reminded the women in Cold Lake that pioneer women, both military and civilian, have shown courage, tenacity, leadership and talent. As women, we owe them a great deal. I also told them that we could be very proud of the gains we have made, but just the same we cannot relax our vigilance because the work is still in progress.

Honourable senators, I would like to take this opportunity to congratulate the organizers of the Cold Lake Women's Conference, particularly the staff at the base's Military Family Resource Center. This conference was right on target, and their hard work ensured its success.

[English]

OVARIAN CANCER

Hon. Terry M. Mercer: Honourable senators, a Decima Research study released in September by the National Ovarian Cancer Association uncovered disturbing facts regarding women's knowledge of ovarian cancer, a disease that kills over 60 per cent of those diagnosed.

Of the women surveyed, 96 per cent could not identify a combination of the most common symptoms of ovarian cancer. This finding is particularly worrisome because there is no screening test for the early detection of ovarian cancer and women and their physicians must rely on symptoms to bring the disease to their attention.

Honourable senators, when women are diagnosed at the early stages, more than 90 per cent can be treated effectively. Sadly, the majority of women are diagnosed later in the progression of the disease, when the survival rate drops dramatically, to 20 per cent. Each year, over 2,400 Canadian women are diagnosed with ovarian cancer. Approximately 1,500 die of the disease annually.

On November 14, 1996, my wife, Ellen, had her last chemotherapy treatment for ovarian cancer. She is still in remission today, but many others are not.

On September 11, 2005, a walk to raise money for research into this silent killer was held in Comox, British Columbia. Walks to raise money for research have also been held in Edmonton, Calgary, Winnipeg, Toronto, Ottawa, Montreal, Halifax and St. John's. For the past few years, I have been walking with my wife and friends, and many of you have been kind to sponsor us, and for that I am most appreciative.

Honourable senators, please continue to support this important cause for your mother, your sister, your wife, your daughter, yourself or your friends.

LITERACY ACTION DAY

Hon. Marilyn Trenholme Counsell: Your Honour, it was my intention to make a statement on the occasion of Literacy Action Day tomorrow, but I then realized that I am scheduled to read to children in your office at that time, so I take this opportunity to make that statement today. I will speak without notes, but I can assure honourable senators that my comments are from the heart.

Tomorrow Senator Fairbairn will bring to the Senate her vast experience and her unparalleled passion on this subject. In anticipation of that, I would thank her and acknowledge the incredible work she does across the land on the subject of literacy. Unfortunately, I will not be in the chamber when she makes that statement.

Honourable senators, in our dealings with children, every day should be Literacy Action Day in every home. That is the message I try to convey at every opportunity.

Tomorrow, largely, what we will discuss is how to treat a malady in our society — I speak as a doctor — something that has gone wrong, an illness. It is, however, a preventable illness. It can be prevented by introducing literacy into every home as soon as children are born. That is why the Born to Read program, Le goût de lire program in New Brunswick, the Read to Me program in Nova Scotia, and the programs in many other provinces, are so important.

[Translation]

Every day is family literacy day.

[English]

For many years, my motto has been: The family home, the cradle of learning and of love.

Honourable senators, each of us has many opportunities to take a parent by the hand and show them how easy it is to read these little books to babies and toddlers. Even if the adult has difficulty in reading, the pictures tell the words. It is amazing. Children will help adults with the words. They will pick you up if you fall, that is, if you do not know the word. On Literacy Action Day and every day, we can help parents to introduce literacy into their homes. Still, at least 30, maybe 40 per cent of our children in this

country go to school totally unprepared. That is because there are no books in their homes. No one has ever read a story to them. There are no games in their homes. It is this love of books, of pictures, of numbers, and the stimulation of imagination that will cure this illness.

I ask honourable senators to think about literacy tomorrow, as Senator Fairbairn speaks to this problem in this country. The real challenge is to ensure that, in every home, every day, children are given the gift of stories. As I said last year, give books this Christmas, this holiday, whatever your holidays are, to children.

QUESTION PERIOD

TREASURY BOARD

RESOURCES FOR DEPARTMENTS TO RESPOND TO ACCESS TO INFORMATION REQUESTS

Hon. David Tkachuk: Honourable senators, while the government has said that they will rehire auditors laid off a decade ago, the Access to Information office struggles without adequate resources.

Adscam was not exposed by the government's internal auditors; it came to light as a result of an Access to Information request. David Dingwall's expenses were exposed not by internal department audits but through an Access to Information request. Horror stories on the gun registry came to light as a result of Access to Information requests.

In his latest report, Access to Information Commissioner John Reid raised the Treasury Board's continuing refusal to give him the staff resources that he needs to do his job. Will the government, as well as beefing up auditing offices, make resources available to hire more people in the access to information area of each department so that they are able to respond to requests that come in from the public and from members of Parliament?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am happy to note Senator Tkachuk's question. I will seek out and provide whatever information I can.

PRIVY COUNCIL OFFICE

RESOURCES TO RESPOND TO ACCESS TO INFORMATION REQUESTS

Hon. David Tkachuk: Honourable senators, according to the report, some departments do a poor job of responding to information requests. In this year's annual report, the commissioner singled out four departments: The Privy Council Office, the Department of Justice, the Department of Foreign Affairs, and the Department of International Trade. One reason cited for delays in responding to access requests is a lack of staff within departments to deal with these requests.

The Leader of the Government in the Senate is supported in his work by one of the departments that received a failing grade, namely, the Privy Council Office. Could he advise the Senate as to

what precise steps the PCO is taking to ensure that staffing does not impose a barrier to timely responses to access to information requests?

• (1350)

Hon. Jack Austin (Leader of the Government): Honourable senators, the question asked by Senator Tkachuk is being considered in the Privy Council Office, and when that answer is available to me it will be provided to the chamber.

Senator Tkachuk: Honourable senators, for the 12-month period ending November 30, 2003, the Information Commissioner gave the Privy Council Office a grade of C. A few days later, Paul Martin became the Prime Minister and for the 12-month period ending November 30, 2004, the PCO has a grade of F, a mark assigned when there are: "...so many major deficiencies that a significant departmental effort is required to deal with their resolution."

After just a year with Paul Martin as Prime Minister, why is the PCO a far less open department than it was under Jean Chrétien?

Senator Austin: I thank Senator Tkachuk for the question. I will add that to the work I will do to try to respond.

CANADA-UNITED STATES RELATIONS

REQUIREMENT TO SHOW PASSPORTS AT BORDER CROSSINGS

Hon. Hugh Segal: Honourable senators, my question is for the Leader of the Government in the Senate. It is a follow-up to questions that I had the privilege of putting to him last week with respect to the American emergent policy relative to passports being required within a two-year period of time for land travel across our border.

As the honourable senator will understand, coming from British Columbia as he does, the disposition of this matter is of great import and substance for many Canadian communities. The American Secretary of State was recently in Ottawa. I made the point last week that the U.S. State Department and U.S. Department of Homeland Security continue to push for this policy despite President Bush and Senator Hillary Clinton having expressed a contrary view. Is the minister able to report to us today on any progress that might have been made yesterday or any new process that might have been set in place in a constructive way to advance this matter?

Hon. Jack Austin (Leader of the Government): Honourable senators, I cannot provide anything to this chamber on the question of border security and border access beyond the fact that the subject was on the formal agenda of talks.

Senator Segal: Honourable senators, in making any further inquiries about the proceeding that took place yesterday, and determining whether he can share any of that with us, would the Leader of the Government in this chamber inquire as to whether the next steps have been decided upon by our own government, relative to making representations in the U.S. House of Representatives, the U.S. Senate or with the U.S. State

Department? Will the Leader of the Government also inquire as to whether any innovative proposals are coming forward from any official Canadian source with respect to biometrics or other methodologies that might be used to reduce the salience of the passport?

The minister will know, as will other honourable senators, that Canadians have a much higher percentage of passport ownership than our American friends. Therefore, the main pain and suffering, if you wish, will occur from limiting Americans coming across the border, which for places such as Kingston, Brockville, and the Thousand Islands, are absolutely fundamental, as they are for many other communities across Canada.

Senator Austin: Honourable senators, I share with Senator Siegel his concern about the disruption of the economies of both Canada and the United States with respect to these proposed security measures being considered by the Department of Homeland Security and by the Secretary of State in the United States.

When Senator Segal and I had an exchange previously, we also acknowledged that serious security questions are involved. These issues are being dealt with at technical levels. The points the honourable senator makes about biometrics must be evaluated. We must know not only whether they work, but also what it would cost to introduce these various measures.

I do not believe the work underway today will produce any specific reportable results. It should be acknowledged again that the issue is of paramount importance and is being worked on diligently.

As Senator Segal will know, having been a chief of staff to a previous prime minister, the discussions are of a bilateral nature. Canada and the United States require the consent of the parties to announce process, progress or conclusions. I believe it will be a while yet before anything can be reported, but I will certainly stay on the file.

BORDER ISSUES—POSSIBILITY OF FORMING INTER-PARLIAMENTARY COMMITTEE

Hon. Hugh Segal: When Senator Clinton was in Massena, New York, she said that she and many of her colleagues voted for the broad piece of legislation that produced this specific problem without actually understanding the implication, and many of them were caught in that divide. Would the Leader of the Government in the Senate give some consideration to the notion of a joint presence between members of this place and the other, along with our colleagues in the American Congress to make some representations and perhaps begin to work constructively, at least on the legislative side, while the diplomats and bureaucrats do what they have to within the normative context?

Hon. Jack Austin (Leader of the Government): I am a great fan of parliamentary diplomacy. In this chamber, Senator Grafstein is the co-chair of the Canada-United States Interparliamentary Group. I will have a discussion with him. We have had colleagues from this chamber, along with members of the other place, in Washington, discussing this topic with U.S. legislators.

I believe that it is a well-merited pursuit for parliamentarians to carry on the dialogue at the legislative level. I thank the honourable senator for his proposal.

INDUSTRY

BOMBARDIER—BUILDING OF PLANT IN MEXICO

Hon. Mira Spivak: Honourable senators, over the weekend it was reported that Bombardier is set to outsource jobs to Mexico. The company is expected to announce the construction of a \$200 million manufacturing facility in Querétaro, Mexico that some reports say will create 5,000 jobs north of Mexico City. Others say the first 360 aerospace jobs are just the start of what could be a stream of job transfers to the city.

All honourable senators are well aware of the amount of support the Government of Canada has given to Bombardier. The company whose customers had what looks like \$6.5 billion in outstanding loans to Export Development Canada, as of December 31, 2003, is asking for more money.

I have a particular interest in this question, because an active government lobbyist has contacted my office on several occasions and has suggested that under certain circumstances, which I will not go into here, Bombardier could move its entire production to Mexico.

What does the government expect to recover, while Bombardier's suppliers in Ontario and the West suffer, if the anchor of Canada's aerospace industry, Bombardier, keeps moving jobs to Mexico?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am not aware of the news reference to which Senator Spivak refers. Therefore, I will have to consider the question and make inquiries of my colleagues in the cabinet to understand the events transpiring.

Senator Spivak: I have copies of the news report that I will be pleased to give to the office of the Leader of the Government.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before going to delayed answers, I would like to draw your attention to the presence in our gallery of the Right Honourable Jack McConnell, MSP, First Minister of Scotland. On behalf of senators here today, welcome to our chamber.

(1400)

As well, honourable senators, I draw your attention to the presence in the gallery of Ms. Jenny Randerson from the National Assembly for Wales. She is the Liberal Democrat member for Cardiff Central and Chair of the Business Committee. Welcome to our chamber.

Both our guests today are in the company of British High Commissioner David Reddaway. Welcome to you as well, sir.

ORDERS OF THE DAY

PUBLIC SERVANTS DISCLOSURE PROTECTION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Smith, P.C., seconded by the Honourable Senator Eggleton, P.C., for the second reading of Bill C-11, to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings.

Hon. Mira Spivak: Honourable senators —

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I remind the chamber that the opposition reserves its 45 minutes to the leadoff speaker on this issue.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Spivak: Honourable senators, I support this bill in principle. We have needed whistle-blower protection in Canada for a long time. The need may be obvious today, as the report of the Gomery inquiry looms, thanks to Allan Cutler, the original whistle-blower of the Public Works and Government Services Canada advertising and sponsorship scandal.

However, the truth is that there have always been principled public employees who have had the courage to go public when they had knowledge of wrongdoing — wrongdoing that breached a law, endangered the public or tossed tax dollars down the drain.

Within our memory, we can thank Pierre Blais, the Health Canada scientist who exposed the risks of silicon breast implants in the 1980s; Elizabeth May, who was a one-time minister's assistant and who resigned and then exposed the deals behind the Rafferty and Alameda dams and the breach of environmental assessment law; Michelle Brill-Edwards, who took a Health Canada director to court for overruling the scientific decisions on drug safety; or Nancy Olivieri, a University of Toronto researcher who fought back when a drug company tried to suppress findings of clinical trials.

Typically, these whistle-blowers receive a deluge of kind words, awards and kudos, but in practical terms they are punished, isolated, shunned, red-circled, demoted and often forced to resign when they are not fired. Their financial security suffers, their career suffers, and every so often their health suffers dramatically.

Historically, we have not protected them. The U.S., Britain and Australia have had whistle-blower protection for years. We have had none. We are not protecting them today. This bill, unofficially dubbed the Whistleblower Protection Act, although a step in the right direction, will not give them enough protection.

Mr. Cutler, now retired from the public service and director of the Federal Accountability Initiative for Reform, FAIR, has critiqued the government's various bills. On this bill, he is blunt. He recently wrote to *The Hill Times*:

I would never recommend that a whistleblower trust that this bill would protect them. It is deficient in a number of important ways...

He lists eight of them, in addition to the fatal flaws that the cocoordinator of Democracy Watch, Duff Conacher, pointed out as the bill was making its way from the House of Commons to this chamber. Mr. Conacher identified, among other things, the absence of public rulings so the public will know what took place, the protection for the identity of the wrongdoer, and the bill's narrow application.

To that list, Mr. Cutler added other significant objections: that the independent commissioner does not have the power to force compliance to protect the whistle-blower; that the government can add or delete any Crown corporation or other public body at will, and three points I want to stress by example.

First, the bill leaves the burden of proof for reprisals on the whistle-blower; second, the remedy for the reprisals is to apply to the Public Service Staff Labour Board; and third, the person accused or involved in the complaint may be assisted or represented by counsel paid for by the government, while the whistle-blower is not assigned a lawyer.

The example I cite will be familiar to some of you. Some of you may have passing knowledge of it, and to some it may be entirely new because the three whistle-blowers it concerns have been out of the headlines for more than a year. I note Senator Kinsella's considerable work in this area. This example speaks not only to the integrity of the government but especially to the integrity of the Senate.

I speak, of course, of the three Health Canada scientists — Shiv Chopra, Margaret Haydon and Gerard Lambert — three highly qualified, experienced scientists who worked in what was then Health Canada's Bureau of Veterinary Medicine. Their job for many years was to judge the safety and efficacy of drugs entering the market for food-producing animals — the safety for the cows, pigs and poultry that end up on our dinner tables — and the safety, or lack of safety, for people who consume the beef, pork and chicken that may contain traces of those drugs, or people who may contract diseases that can be transmitted from animals to human. Think avian flu or mad cow disease.

Some 10 years ago, these scientists grew alarmed by what they viewed as pressure on them to approve drugs of questionable safety. They felt the pressure from managers who lacked scientific training and balked when the scientists simply wanted to ask drug manufacturers to supply more data establishing safety before approving a drug. Managers who lacked scientific training in this area happened to be a tendency some years ago when it was felt that the managers ought not to be people with scientific background but people with managerial background.

In those years, they were concerned about the rapid use of growth hormones and antibiotics in factory-like farm operations. While the national media made much ado about drugs tests for our prime athletes, these drug evaluators were concerned about drug residues in our prime rib.

As mad cow disease ravaged the cattle industry in Britain and parts of Europe, they also became concerned about animal feed that contained ground-up cattle or waste from poultry barns or road kill. In fact, in December 1997, through the Professional Institute of the Public Service of Canada, they warned the Prime Minister in writing:

Health Canada plays an integral part in ensuring Canadians do not face disasters such as BSE (mad cow disease.) We cannot afford to play "Russian Roulette" with the legislation that governs the inspection of food and drugs in this country.

As it turns out, they were ignored, and we all know the horrific costs to the cattle industry that resulted.

They went through the proper channels, filed grievances, called for an external investigation and finally named names of those in Health Canada they believed were standing in the way of fulfilling their duty to protect the public interest. Seeing no change, in 1998, they appeared on national morning television and repeated the charge that they were "being pressured to approve drugs of questionable safety and the department (was) not willing to look into the matter."

That same year, they appeared before the Standing Senate Committee on Agriculture and Forestry, and greatly assisted us into our study of the growth hormone rBST and the drug approval process. If you missed the news back then, rBST was the first genetically engineered drug to land at the door of the department. It had no therapeutic benefit and, in fact, had all sorts of harmful effects on cattle. Monsanto wanted to sell it in Canada to help farmers increase milk production. The scientists were extraordinarily well informed and reluctant to give the nod to the drug. They were also, frankly, fearful of reprisals. They feared losing their jobs.

Here is how our committee report put it in March 1999:

Several of the Health Canada scientists who appeared before the Committee were so concerned about their future employment that they delayed appearing until they had received assurance that there would be no reprisals.

As well, they took the unusual step of swearing an oath before testifying. These concerns are serious, and the Committee reiterates the point made during their appearance: it wishes to be contacted should they feel they are suffering reprisals related to their appearance, whether in the short or long term.

• (1410)

There were reprisals, including a five-day suspension without pay for Dr. Chopra, a suspension the department claimed was not linked to his appearance before the Senate committee but, rather, to statements he made at a March 1999 conference on employment equity.

Our Rules Committee did investigate and, in April 2000, found that the standard of proof required to determine that contempt of Parliament had occurred had not been met, adding, "...but that is not to say there is no evidence." The committee stated:

The evidence clearly establishes that the working environment at the Bureau of Veterinary Drugs at Health Canada is highly unsatisfactory. There is a great deal of suspicion and lack of trust, and therefore allegations of this nature cannot be entirely discounted. Your Committee finds this situation deplorable, and urges the Minister of Health and the Deputy Minister to take steps to remedy it, as a priority and a matter of urgency.

The remedy, as it turns out, was further isolation for these whistle-blowers, working conditions that led to further stress and sick leave, and a suspected heart attack that claimed the life of one of our witnesses.

Finally, on July 14, 2004, the three remaining defenders of the public interest were simultaneously fired, with Health Canada claiming it had nothing to do with their activities as whistle-blowers. The government holds to that spin.

I will read to you what some of the nation's editorial writers and columnists had to say. In the Montreal *Gazette* we saw the following article:

Health Canada fired three of its most visible and controversial employees this week, leading everyone with a functioning brain to suppose the action was retaliation for their public criticism of departmental policy.

The London Free Press article stated:

It is suspiciously convenient that three Health Canada scientists who happened to be among this country's most outspoken whistleblowers are also guilty of other, undisclosed, offences so serious that they had to be fired. It is a curious coincidence that the three were fired on the same day.

The Toronto Star wrote:

Unlike the United States, Britain and Australia, Canada still has no protection for federal public servants who, in good faith, blow the whistle on improper or illegal conduct by officials or agencies. Health Canada's firing of three outspoken scientists this week is a reminder that we need such a law.

These diverse views of the sad event — Health Canada's on the one hand and the scientists' and the press on the other — were presented 15 months ago. The only remedy available to the scientists — the same remedy proposed in Bill C-11 — is a hearing before the Public Service Labour Relations Board. Applications were filed, and the applicants waited. They still have not had disclosure of documents. They have not had a single day of hearings in a case that is likely to take between 20 and 30 days of hearings before the board.

A few days were slated for next month and then cancelled, according to their lawyer, because the board cited "reasons beyond its control." A few days are slated for mid-December; and in response to a request for dates any time between January and March, the government offered two dates in February.

If they are lucky, these whistle-blowers will get the board hearing to which they are entitled within two years of their dismissal. That is two years without income, without interim relief, and with the stress and strain of unemployment.

Of the government-prompted delays, their lawyer puts it mildly: "You have to wonder how they can't be available for so long."

I think that we collectively have a moral duty to do better for these whistle-blowers who helped us do our work, which, not incidentally, was a factor in keeping rBST residue out of our milk supply, an action that encouraged other countries to follow suit.

As far as this bill is concerned, we should ensure that it does not permit similar procedural delays and abuses in the future.

For these three, we should not forget our promise to them to be open to hearing any facts they want to present to us on any long-term reprisals. I know that they have again approached the Rules Committee and are waiting to know whether they will be invited to appear before the committee. The committee that examines this bill should also hear from them, and I look forward to the discussion of this bill in committee.

At the end of the day, we must honour our word.

On motion of Senator Stratton, for Senator Kinsella, debate adjourned.

FOOD AND DRUGS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Terry M. Mercer moved second reading of Bill C-28, to amend the Food and Drugs Act.

He said: Honourable senators, I am pleased to commence second reading debate on Bill C-28, which proposes two amendments to the Food and Drugs Act. These amendments would provide the Minister of Health with the authority to allow Canadians faster access to a wider variety of safe and nutritious food products.

The bill was introduced in response to the concerns of the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations about the legal status of regulations that currently permit issuance of notices of interim marketing authorizations under the Food and Drugs Regulations. These notices allow the availability of safe foods in the Canadian marketplace earlier while the formal process is undertaken to amend the regulations.

The amendments introducing this concept into the Food and Drugs Regulations came into effect in July 1997 after thorough consultation and analysis and in accordance with the requirements of the federal regulatory process.

These provisions allow the director, defined as the "Assistant Deputy Minister of the Health Products and Food Branch of Health Canada," to issue a notice of interim marketing authorization. This notice exempts certain foods from the application, in whole or in part, of the regulations after a thorough safety assessment has concluded that no harm would be caused to the consumer or the user. By doing so, the director can allow the sale of these foods by all manufacturers and producers while the regulations are amended.

Honourable senators, the final step in the federal regulatory process is the review by the Standing Joint Committee for the Scrutiny of Regulations made by the Governor-in-Council as per the Statutory Instruments Act. The standing committee conducted its review of the notice of interim marketing authorization provisions and expressed concerns that the power to exempt food products from the provisions of the Food and Drugs Regulations conferred an ultra vires administrative discretion on the director of a legislative authority granted by Parliament to the Governor-in-Council.

In essence, the standing committee maintains that the regulations that allow for the issuance of notices of interim marketing authorizations are beyond the regulation-making authority of the Food and Drugs Act; hence this bill.

Since these regulations came into effect, Health Canada has issued 82 notices of interim marketing authorization with no problems or concerns expressed by consumers or industry.

The consumer has benefited from early access to new and safe food products. For example, foods containing added vitamins and mineral nutrients to improve their nutritional quality were marketed earlier. In addition, notices of interim marketing authorization have allowed the earlier sale of foods derived from crops that have been treated with safe, effective agricultural chemicals, including pest control products.

• (1420)

In order to maintain the current mechanism that offers benefits to consumers and industry by allowing timely access to safe food products, the government has introduced Bill C-28. The first proposed amendment would provide the Minister of Health with the authority to exempt the food from the application in whole or in part of sections 5 to 6.1 of the Food and Drugs Act and the applicable requirements of the Food and Drug Regulations.

The minister would do this by issuing an interim marketing authorization, which would allow the immediate sale of some food products for which scientific assessment has established that these products would not pose a hazard to the health of Canadian consumers or users. The sale of these food products would be allowed while the full regulatory process would be undertaken to amend the regulations.

This is an important point. The issuance of an interim marketing authorization would not affect or circumvent the conduct of thorough safety assessment prior to the availability of these food products on the market. These authorizations could only be issued when the scientific evaluation concludes that no harm to consumers would result from the consumption of the food, and Health Canada has made the decision to propose the regulatory amendment for: (1) the extension of use of a food additive already permitted to be added in other foods into a new food, or the change of a permitted level of use of a particular additive; (2) maximum residue limits of an agricultural chemical -- including pest control products — or veterinary drug in a food where the Food and Drug Regulations already permit these substances in other foods, or the increase in the permitted maximum residue limits; or (3) the addition of vitamins. mineral nutrients or amino acids at different levels than those listed in the regulations, or to new foods.

The limited scope of application on the interim marketing authorization mechanism in this bill is exactly the same as in the current regulatory mechanism reviewed by the standing committee. The only difference is that it clearly specifies the authority in the Food and Drugs Act instead of in the regulations.

The second aspect of Bill C-28 relates to pest control products and how they are regulated under the Pest Control Products Act and the Food and Drugs Regulations. The new Pest Control Products Act, which received Royal Assent in December 2002, provides the minister with authority to specify maximum residue limits for a pest control product, its components or derivatives in or on food.

Before specifying the maximum residue limit, the minister must evaluate the health risks of the product and must determine that the risks are not significant. For that purpose, there must be reasonable certainty that no harm to human health will result from the consumption of food containing the residue of this specific pest control product at or below the specified maximum limit.

However, the adulteration provisions in the Food and Drugs Act and its regulations state that foods are adulterated if they contain residues of pest control products above levels set out in the regulations. Therefore, foods containing residues of pest control products at or below the maximum limit specified by the minister under the Pest Control Products Act cannot be sold until the specified maximum residue limit is also established in the Food and Drugs Regulations.

The delay caused by the need for regulatory amendments to the Food and Drugs Regulations can be as long as two years. The proposed amendment to the Food and Drugs Act recognized maximum residue limits specified under the new Pest Control Products Act for Food and Drugs Act purposes, which would result in administrative efficiencies and would also benefit the agricultural industry by allowing faster access to improved pest control products for use on food crops.

Bill C-28 will not permit foods that are unsafe, or whose safety has not been evaluated, onto the market. Interim marketing

authorizations will be considered only for an additional use, or a change in the permitted level of use, of certain products that have been previously reviewed and approved by Health Canada.

Issuance of an interim marketing authorization will require a new safety assessment to be conducted by Health Canada, even though the product is already in use. This will provide a valuable opportunity to update the original safety assessment and to ensure that any new use is based on the results of the most current, comprehensive and science-based safety assessment.

An interim marketing authorization would only be issued if Health Canada scientists conclude that there will be no hazard to the health of the consumer.

The proposed amendments to the Food and Drugs Act support the Speech from the Throne of October 2004 objective of providing a predictable regulatory system that accomplishes public policy objectives efficiently while eliminating unintended impacts.

The proposed amendments are also in line with the ongoing intent of the Government of Canada's Smart Regulation Initiative, and the recommendations for the External Advisory Committee on smart regulation. Their aim, in part, is to provide access to safe products in a more timely fashion and remove possible restrictions on international trade.

In addition, the proposed amendments will support the ongoing work of the North American Free Trade Agreement Technical Working Group on Pesticides, through which Health Canada and the United States' Environmental Protection Agency have accelerated bilateral harmonization in the registration of pest control products. This is in order to provide faster and simultaneous access to a wider range of newer, safer pest management tools in both countries.

I invite you, honourable senators, to pass this bill to ensure that the Minister of Health can continue to allow consumers to have timely access to safe food products.

On motion of Senator Keon, debate adjourned.

FIRST NATIONS GOVERNMENT RECOGNITION BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator LeBreton, for the second reading of Bill S-16, providing for the Crown's recognition of self-governing First Nations of Canada.—(Subject-matter referred to the Standing Senate Committee on Aboriginal Peoples on February 22, 2005)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, we need to reset the clock on this item. The bill is before the committee. This item should hold its place on the Order Paper so that it can be debated when the bill is reported to the house. I would ask that we begin this procedural process again.

The Hon. the Speaker: Is it agreed, honourable senators, that this matter be returned to day one as of the next sitting?

Hon. Senators: Agreed.

Order stands.

• (1430)

[Translation]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

MOTION TO ALLOW REINTRODUCTION OF BILLS FROM ONE PARLIAMENTARY SESSION TO THE NEXT ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Smith, P.C.:

That the Standing Committee on Rules, Procedures and the Rights of Parliament study and make the necessary recommendations on the advisability of amending Senate practice so that bills tabled during a parliamentary session can be reintroduced at the same procedural stage in the following parliamentary session, with a view to including in the Rules of the Senate, a procedure that already exists in the House of Commons and would increase the efficiency of our parliamentary process.—(Honourable Senator Lapointe)

Hon. Jean Lapointe: Honourable senators, when Senator Hervieux-Payette, whom I admire for her candour and her talent, called for the Standing Committee on Rules, Procedures and the Rights of Parliament to study and make the necessary recommendations on the advisability of amending Senate practice so that bills tabled during a parliamentary session can be reintroduced at the same procedural stage in the following parliamentary session, with a view to including in the Rules of the Senate, a procedure that already exists in the House of Commons and would increase the efficiency of our parliamentary process, I was very pleased.

You are familiar with my aversion to wasting time. During the process of studying the bill on video lottery terminals, we were treated to an election and a prorogation, so I had to start the debate over from the beginning every time. It is deplorable that the Upper Chamber must lose so much time in repeating speeches that have already been given. I support Senator Hervieux-Payette's motion 150 per cent.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[English]

EFFICACY OF GOVERNMENT IN IMPLEMENTING KYOTO PROTOCOL

INQUIRY—ORDER STANDS

On Inquiry No. 19, by Senator Andreychuk:

That she will call the attention of the Senate to the failure of the government to address the issue of climate change in a meaningful, effective and timely way and, in particular, to the lack of early government action to attempt to reach the targets set in the Kyoto Protocol.

Hon. A. Raynell Andreychuk: Honourable senators, I rise to rewind the clock so that I might speak to this item next week.

The Hon. the Speaker: Is it agreed, honourable senators, that the clock be rewound on Item No. 19 and that it stand in the name of the Honourable Senator Andreychuk?

Hon. Senators: Agreed.

Order stands.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

MOTION TO AUTHORIZE COMMITTEE TO STUDY STATE OF PREPAREDNESS FOR PANDEMICS—DEBATE ADJOURNED

Hon. Terry Stratton (Deputy Leader of the Opposition), pursuant to notice of October 19, 2005, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the state of preparedness for a pandemic on the part of the Canadian Government and in particular on measures that Canadians and Canadian businesses and organizations can take to prepare for a pandemic; and

That the Committee submit its report no later than December 8, 2005.

He said: Honourable senators, this week, ministers of health from around the world and heads of international organizations gathered in Ottawa to discuss key issues and to coordinate their preparations for a possible influenza epidemic.

[Translation]

This proves that the government does not take the threat of a possible global epidemic lightly and for that we commend them.

[English]

Taking steps to work with other governments is fine but we need to ensure that we are doing everything we can to help Canadians prepare here at home. That is why I am calling on the Standing Senate Committee on Social Affairs, Science and Technology to study and report on this country's state of

preparedness for a pandemic and, in particular, the measures that Canadians, individually and as families, businesses and organizations can take to prepare for that possible event.

The word "pandemic" has been tossed around a great deal lately. Let us be clear on what we mean. We are talking about an influenza pandemic, which occurs when a new virus appears that spreads easily, potentially globally, and against which people have little immunity. Because pandemics typically arrive every 30 years or so, and there has not been a major one since the late 1960s, we appear to be overdue for the next one, but we do not know when it could happen — in six months or six years — or how bad it could be. Many strongly believe that the next pandemic will come in a mutation of the H5N1 strain of avian flu. The strain has already killed some 65 of 116 people known to have been infected in Asia. It is spreading quickly and widely and has been detected in Europe for the first time, where it infected birds in Turkey, Romania and Greece. As the fall season rolls along and birds migrate, the next fear is for Africa.

Currently, this highly virulent strain cannot be passed from animal to human. The risk would occur if the flu were to evolve into a strain capable of passing from human to human. That evolution could result in a pandemic rivalling the 1918 Spanish Flu, which killed 20 million to 40 million people worldwide. If the virus were particularly nasty, the effect of a pandemic could be, as the Conference Board of Canada recently put it, "catastrophic." In its report, *Performance and Potential 2005-2006*, the board states:

The consequences would be devastating, with the estimated number of victims ranging between 180 and 360 million. Aside from the sheer dent in the global workforce, an epidemic of medium proportions would break global production chains, shatter trade and impede the delivery of services involving human contact. A flu pandemic on a large scale would throw the world into a sudden and possibly dramatic global recession.

Sherry Cooper of BMO Nesbitt Burns stated in the October 2005 report, Don't Fear Fear or Panic Panic:

The bottom line is that a pandemic, even one meaningfully less virulent than the 1918 influenza outbreak ... would have hugely disruptive effects. Depending on its length and severity, its economic impact could be comparable, at least for a short time, to the Great Depression of the 1930s.

• (1440)

According to a U.S. federal report leaked to the *New York Times* a few weeks ago, hospitals would be overwhelmed, riots would strike vaccination clinics and even power and food supplies might be disrupted. This is the reality we may be facing. There is a great possibility that a pandemic will overcome the earth at some point in the future. It could be mild, as it was in 1968, or it could be as devastating as it was in 1918.

The key question is: Are we as a country ready? Just last week, Canada's Minister of State for Public Health, Dr. Carolyn Bennett, talked to the *Winnipeg Free Press* about SARS and the lessons we learned from that relatively minor outbreak. In her opinion, the biggest problem with SARS was the hysteria created by a lack of information. She said:

It was a problem of fear and not knowing. I think people need to know there is a plan. Everyone needs to know what they have to do.

My message to the minister is this: There is still no information available for Canadians. There is no public education guiding people about practical measures they can follow to protect themselves and those around them.

It has gotten so bad that some members of Parliament, even Liberals, are starting to issue their own avian flu advisories. Conservative member of Parliament Carol Skelton has pointed out that the website for public health has not been updated since early September. NDP Member of Parliament Jean Crowder said, and I am quoting from the *Hill Times*:

There are still some places where we haven't done enough work for example, I don't see us having put in place a communications network...

Here is my contribution on the matter of education. Each of us can take four steps that will help to stop the spread of any viral infection, and we should be doing these things all the time, 12 months of the year. First, you wash your hands using soap. It is not enough just to rinse them under the tap. This is probably the most important thing that any one of us can do to stop disease in its tracks. I wonder how many here really know how to wash their hands. Perhaps Dr. Keon and a few others in the health care system know how to do it, but I do not think many of us know how to do it properly. Perhaps Dr. Keon can give us a demonstration.

The second recommendation is to use cough and sneezing etiquette. This means covering your mouth and nose if you cough or sneeze. Using a hanky or tissue would be even better, and do not forget to wash your hands after. It is plain and simple.

Stay home if you are sick. It sounds simple. Last year, I made the mistake of not staying home. Being a macho guy, I got sick, took pills and kept going to work. I should not have done that. I apologize for it. The next time I get sick, remind me to stay home.

If you are not sick, avoid sick people, if possible. You do not want to get sick, so avoid them.

We all have the habit of putting our fingers up to our eyes. We put our fingers up to our noses to scratch. That causes problems.

These four steps are things that we already know we should do, but we do not necessarily do them because they either take extra effort or we are not aware of the impact that not doing them can have on our own daily lives. It takes time to get a message like this across.

We found out from the SARS experience that people did not immediately do the things they were supposed to do to protect themselves, things like following the four steps I just listed. The importance of these measures has to be learned.

For that reason, we need to start working now through public education to make people aware of what they can do and turn that awareness into action. These actions, such as the four steps, must become second nature to us before any epidemic or pandemic arises. While this may not stop the spread of the virus, it sure can help to slow it and it may save lives, including your own and those of the people you love.

I call on the Social Affairs Committee of the Senate to present a report on what Canadians individually, as families, and as businesses can do to get the needed information out there, and to kick-start the process of educating people and help them acquire habits that will help slow the spread of disease.

Canadian businesses and organizations must also develop strategies before a pandemic shows up at their doorstep. They are valuable crucibles for reinforcing the four steps I have discussed. However, in the face of a pandemic, they have the additional burden of trying to continue their operations when their employees stop showing up for work because they are sick, supplies are unavailable, infrastructure is falling apart and clients disappear. Large firms operating across borders must work with different political jurisdictions that have their own rules and procedures to fight a pandemic.

SARS thumped Toronto's economy hard, and it was just a minor outbreak, albeit with 44 deaths. Imagine for a moment the economic impact of countless SARS outbreaks springing up throughout the country for months on end.

I understand that the federal and other ministers of health will be meeting with business leaders in November. This could be a good start, depending on who is involved and what is accomplished and the information that is available to all businesses thereafter. Leadership and direction is needed.

[Translation]

I repeat: providing information is critical and a public study on the major challenges could help achieve this goal.

[English]

In the past years, we have faced many problems together: SARS in Ontario, an avian flu outbreak in British Columbia, an ice storm and a major power failure in parts of Eastern Canada. We have had hurricanes, floods, snowstorms, and just about anything else you can think of. Through each of these disasters we have learned, I hope, many lessons in how to respond. My fear is that we have not properly applied these lessons and that they are not being adequately communicated to the people of this country.

I want all Canadians to be prepared and knowledgeable should a pandemic hit. That is why I want the Standing Senate Committee on Social Affairs, Science and Technology to examine how ready we are, as well as the practical steps we can take to prepare, particularly the latter.

As the former Prime Minister of the United Kingdom, Stanley Baldwin, prophesized before the start of the Second World War, "The bomber will always get through." Whether that bomber is dropping a nuclear bomb or a firecracker, I want to ensure that we are ready for what is ahead.

October 26, 2005

Hon. Jean Lapointe: Will Senator Stratton accept a question?

Senator Stratton: Yes, I will.

Senator Lapointe: Before I ask my question, I should like to pay two compliments to the honourable senator. First, I compliment him for raising this serious matter which he addressed, incorporating some humour. I find the honourable senator more sympathetic when he is funny.

Second, I believe that the honourable senator had two French interventions in his speech. They were exquisite, and I would to congratulate him on his competent use of the French language.

My question is this: Does the honourable senator, even though he is an opposition member, have any idea when the vaccine will be available for use to enhance the taking of all of the precautions he mentioned?

Senator Stratton: I thank Senator Lapointe for paying me those two compliments. On the first one, I would just say, please remind when I get too serious. That needs to happen. As to his compliment concerning my use of the French language, I am fortunate to have a marvellous professor from Collège universitaire de Saint-Boniface in Winnipeg who is helping me immensely.

With regard to the vaccine, it is unfortunate that, since only so many doses are available, it will be impossible for every Canadian to be vaccinated, if the flu should strike in the next little while. We must accept that reality and move on. That is why I say it will take an education process, and every country is in the same boat. The United States is in the same boat, as well as Great Britain. We are not alone in not being able to produce enough vaccine.

• (1450)

It would help if we throw some money at it. I encourage governments to throw some money at half those countries that now have to kill their flocks of domestic birds. The farmers there do not get compensated. They come in, they kill their birds, and the farmers are left destitute. In Indonesia, as an example, they are not killing the birds. They are letting the birds get sick and die, and they are still not culling the flock.

There will not be enough vaccine. We must recognize that. That is why I believe there needs to be an educational process where we can take steps like the first four I described. Those steps would be sufficient for now.

We are starting the flu season right now. Honourable senators will notice that certain people in this chamber have colds. I believe it is important that we do that as a first step, but I also think there needs to be a second and third level of care taken by individuals, families and businesses if this flu evolves into a pandemic. The first four steps I described we should be doing anyway. Hopefully I have answered your question.

Hon. Bill Rompkey (Deputy Leader of the Government): I am glad Senator Lapointe said that we could be a little funny on this issue, even though it is a serious one, because I wanted to remind Senator Stratton of a little rhyme that I learned in the Junior Red Cross in grade 5. I was elected secretary of the Junior Red Cross in grade 5, and the little rhyme that we learned was, "Whenever you cough or sneeze or sniff, be quick, my lad, with your handkerchief."

On motion of Senator Rompkey, debate adjourned.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in our gallery of a delegation of senior officials on health care from Russia who are visiting Ottawa and Vancouver to share, and to have shared with them, information about matters such as those we have heard about from Senator Stratton and Senator Lapointe, as well as other matters. They are accompanied by Mary Collins, our former colleague from the other place, and they are the guests of Senator Fairbairn. Welcome.

Hon. Senators: Hear, hear!

[Translation]

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY ON BILINGUAL STATUS OF CITY OF OTTAWA

Hon. Lise Bacon, pursuant to notice given October 25, 2005, moved:

That, notwithstanding the Order of the Senate adopted on Wednesday, April 13, 2005, the date for the presentation of the final report of the Standing Senate Committee on Legal and Constitutional Affairs on the petitions tabled during the Third Session of the Thirty-seventh Parliament, calling on the Senate to declare the City of Ottawa a

bilingual city and to consider the merits of amending section 16 of the Constitution Act, 1867, be extended from October 27, 2005 to June 30, 2006.

Motion agreed to.

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY ON INCLUDING IN LEGISLATION NON-DEROGATION CLAUSES RELATING TO ABORIGINAL TREATY RIGHTS

Hon. Lise Bacon, pursuant to notice given October 25, 2005, moved:

That, notwithstanding the Order of the Senate adopted on Wednesday, November 3, 2004, the date for the presentation of the final report of the Standing Senate Committee on Legal and Constitutional Affairs on the implications of including, in legislation, non-derogation clauses relating to existing aboriginal and treaty rights of the aboriginal peoples of Canada, under s. 35 of the Constitution Act, 1982, be extended from October 31, 2005 to June 30, 2006.

[English]

Hon. Terry Stratton (Deputy Leader of the Opposition): As I understand it, the reason is that the Honourable Senator Bacon is dealing with legislation, that is her priority and that is why these two items are delayed.

An Hon. Senator: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

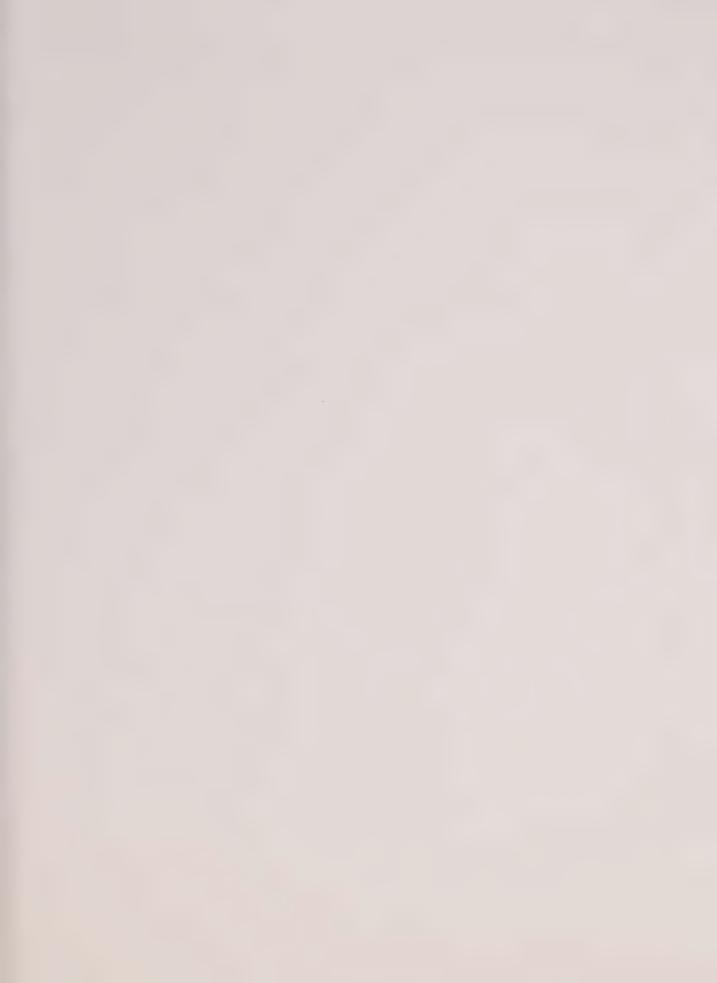
Motion agreed to.

The Senate adjourned until Thursday, October 27, 2005, at 1:30 p.m.

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Thursday, October 27, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193



THE SENATE

Thursday, October 27, 2005

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before I start the proceedings, I should like to draw to your attention the presence in our gallery of representatives of the Embassy of the Republic of Botswana: His Excellency, Lapologang Lakoa, High Commissioner for Botswana; Herold Luke, Second Secretary; and Marcel Belanger, Honorary Consul for Botswana. They are the guests of Senator Rompkey.

On behalf of all honourable senators, we welcome you to the Senate of Canada.

Honourable senators, I should also like to draw your attention to the presence in the gallery of Ms. Dorothy Zinberg, Faculty Member in the program for Science, Technology and Public Policy at Harvard University; and Ms. Holly Sargent, Senior Associate Dean, University Advancement and Senior Director for University Women's Initiatives at Harvard University. They are the guests of Senator Dyck.

On behalf of all honourable senators, I welcome you both to the Senate of Canada.

SENATORS' STATEMENTS

IRAN

NUCLEAR WEAPONS PROGRAM

Hon. David Tkachuk: Honourable senators, yesterday Iran's president publicly called for Israel to be "wiped off the map," with the crowd responding, "Death to Israel. Death to America." His words leave little room for interpretation; his meaning is clear. In another time, we have heard other Arab leaders say things like this and we have said nothing. We cannot afford to do so today.

For some time now, Iran has been clear about its nuclear ambitions. It is estimated that they are 5 to 10 years away from building a weapon that would fulfil the Iranian president's dream. On September 24 of this year, no less a body than the International Atomic Energy Agency, the recent winner of the Nobel Peace Prize, found Iran in non-compliance with its nuclear safeguard agreement. Further, it pointed to a history of concealment in this area, leading to strong doubts that its nuclear program was for peaceful purposes. The independent and prestigious International Institute for Strategic Studies points to recent intelligence that Iran is developing a Shahab-3 missile, a weapon with a payload ideally suited for a nuclear weapon. Iran has barred inspectors from all locations near its military program.

Honourable senators, Iran has stated clearly its intentions and is busy building the weapons to fulfil them. The Prime Minister has condemned the Iranian president for his words. He said they fuelled hatred and anti-Semitism. We need to move beyond words to action. We need to stand side by side with the United States and Israel to do everything we can to halt Iran's nuclear weapons program, and we need to convince all UN Security Council members to take appropriate UN action in this regard. These measures are just for starters.

WOMEN IN SCIENCE

Hon. Lillian Eva Dyck: Honourable senators, as you have just heard, we have in the Senate gallery this afternoon two internationally renowned women from Harvard University: Dorothy Zinberg and Holly Sargent. Dr. Zinberg is a faculty member in the program for Science, Technology and Public Policy. She was a biochemist for 10 years at Harvard University before undertaking her doctorate in sociology. In addition to publishing numerous papers and books, teaching and conducting research, Dr. Zinberg has served on many boards, panels and committees, such as the NATO Panel on Science and Technology Policy.

Holly Sargent is Senior Associate Dean for University Advancement and Senior Director for University Women's Initiatives. She has an outstanding record of securing major gift support to Harvard University that has helped create many initiatives in women's issues in human rights. She has developed an advisory board of distinguished women leaders to support women's programs at the Kennedy School of Government.

This morning, these two remarkable women led a discussion on Women and Science, The Harvard Experience: Bridges to Canadian Context. The panel was chaired by Arthur Carty, National Science Adviser to the Prime Minister; and was co-hosted by Carole Swan, Associate Deputy Minister, Industry Canada and myself.

Honourable senators, in January 2005, comments made by the President of Harvard, Lawrence Summers, resulted in the establishment of two task forces on women in minorities in science and a commitment of \$50 million U.S. over 10 years to support the task force's recommendations. As you know, underrepresentation of women in science is not unique to Harvard. It occurs throughout Canadian universities.

In Canada, we have many organizations that work independently to increase the participation of girls and women in science and technology. We have organizations in the federal government, non-government organizations and programs such as the Natural Sciences and Engineering Research Council of Canada, NSERC, chairs in women and science and engineering. We have the Canadian Coalition for Women and Science and Technology, CCWEST, which is working toward establishing a national body to coordinate the efforts of all these organizations.

This morning, Dr. Carty, following the round table discussion, committed to support from his office to bring together the key people, the small group of leaders, who will bring leadership to the issue. This group will create a blue ribbon national committee that other countries could look to for cohesive, comprehensive solutions to increasing the participation of men and particularly women in science and technology.

Hon. Senators: Hear, hear!

• (1340)

INTER-PARLIAMENTARY DISCUSSION ON MIDDLE EAST ISSUES

Hon. Marcel Prud'homme: Honourable senators, I did not give my name to participate today. Rarely do I agree with Senator Tkachuk on issues involving the Middle East. However, I will state, in a nuanced way, that I agree with this condemnation.

I did more than that; I made my view known directly to the Embassy of Iran, in meetings with officials there last week and again this morning.

I have no pleasure or desire to side with the United States and Israel, who just voted alone against a Canadian initiative on UNESCO. I do not need the United States and Israel to endorse my conduct. I simply find what has been said to be unacceptable. Senator Tkachuk is busy with Senator Fraser, who took more initiative in the Inter-Parliamentary Union, IPU, as recently as two weeks ago in Geneva.

Condemning is easy. Mr. Trudeau used to say that words are easy. However, in my view as a parliamentarian, engaging with people in a vigorous, civilized discussion is more efficient.

I would be more than happy if Senator Tkachuk, for whom I have a great deal of friendship and respect, would join with me some day. We could easily do so outside of the Standing Senate Committee on Foreign Affairs. This committee should look into these matters. Unfortunately, the committee is too busy on other issues to tackle the hot issue of the day. I think we could discuss this issue.

We should remember when saying Iran should not have a nuclear possibility in 5 to 10 years that they are next to a country that has been a nuclear power for about the last 40 years, courtesy of France and Charles de Gaulle — and that is Israel. The arms race started in Israel, which gives all its neighbours a taste for the same. Those who did not have the know-how had the money to buy the technology. It is not pleasant to say those surrounding countries had no knowledge but the money to buy it, but that is what they did.

We must go further than condemnation. I join with Senator Tkachuk in saying it is unacceptable. I join with him in saying we can do more. However, I would like to go further than just plain condemnation and making speeches to say how strongly we condemn that action.

I find it amazing that during this time of crisis and danger in the Middle East, our business community is still stampeding to get contracts in Iran. I think we should have consistency.

LITERACY ACTION DAY

Hon. Joyce Fairbairn: Honourable senators, today Parliament Hill has been invaded by an army of 65 crusaders calling on all of us to pull up our socks and put some muscle behind the cause of literacy in this country. A startling number of 42 per cent of Canada's adult citizens are at risk every day because they lack the routine skills of reading, writing, numeracy and communications, which most of us simply take for granted.

Thanks to our national associations, led by the Movement for Canadian Literacy, this is the twelfth annual Literacy Action Day on the Hill. We are encouraged to meet with, to listen to and to learn from advocates and learners that this issue is tarnishing our country and the opportunities of citizens, young and old, to build a decent life for themselves and their families.

The good news is that more than 70 parliamentarians were listening. They heard what Literacy Minister Claudette Bradshaw heard when she toured Canadian communities, large and small, this past summer. Our people want to help and that includes our learners. They are tired of piecemeal plans, which come and go. They want some kind of security within a well-thought out, 10-year plan, which Minister Bradshaw is already working to develop.

They are pleased with the most generous budget ever, which focused on support for workplace skills and training; second language assistance for immigrant settlement; serious support for Aboriginal citizens on and off reserves; and a \$30-million investment in the National Literacy Secretariat, the agency that understands and works in partnership with every province and territory, as well as programs on the ground. It truly is the human face of the federal government's commitment to literacy and must be protected and expanded.

This is my twenty-first year working on this cause. It is the first time I have felt we are truly committed to significant progress. I am grateful for the support of many colleagues in this house — all the colleagues in this house who have spoken up here and are on the ground helping to make a difference. Indeed, every one of them has been supportive and I will continue to lean on them for that secure encouragement.

We are at a crossroads on this issue. It is time to seriously find the right tools to cut down those grim statistics and offer every citizen in Canada — wherever they live, and whatever their age or circumstance — to have that fair chance at the incredible opportunity on display in this blessed country.

I know, without doubt, that working together we can truly make a difference.

ROUTINE PROCEEDINGS

CLERK OF THE SENATE

2004-05 ANNUAL ACCOUNTS TABLED

The Hon. the Speaker: Pursuant to the Senate administrative rules, I have the honour to table the clerk's statement of receipts and disbursements for the year ended March 31, 2005.

[Translation]

THE ESTIMATES, 2005-06

SUPPLEMENTARY ESTIMATES (A) TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the 2005-06 Supplementary Estimates (A), for the fiscal year ending March 31, 2006.

[English]

CANADA'S LINGUISTIC DUALITY: A FRAMEWORK FOR MANAGING THE OFFICIAL LANGUAGES PROGRAM

UPDATE ON THE IMPLEMENTATION OF THE ACTION PLAN FOR OFFICIAL LANGUAGES

DOCUMENTS TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table a copy in both official languages two documents entitled La dualité linguistique canadienne: Un cadre de gestion pour le programme des langues officielles and Update on the Implementation of the Action Plan for Official Languages.

THE ESTIMATES, 2005-06

GOVERNMENT RESPONSE TO NATIONAL FINANCE COMMITTEE THIRD INTERIM REPORT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table the government's response to the twelfth report of the Standing Senate Committee on National Finance.

SPEAKER'S DELEGATION TO POLAND

REPORT TABLED

Hon. Daniel Hays: Honourable senators, I have the honour to table a report of a Speaker's trip to Warsaw and Gdansk, Poland to represent Canada and the Prime Minister of Canada at the twenty-fifth anniversary celebrations of the founding of Solidarity and its entering into of its first agreement with the Government of Poland.

THE ESTIMATES, 2005-06

NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY SUPPLEMENTARY ESTIMATES (A)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that at the next sitting, I will move:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2006.

• (1350)

[Translation]

ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

BUREAU MEETING AND THIRTY-FIRST SESSION, JULY 5-9, 2005—REPORT TABLED

Hon. Pierre De Bané: Honourable senators, pursuant to rule 23.6 of the *Rules of the Senate*, I have the honour to table, in both official languages, the report of the Canadian Branch of the Assemblée parlementaire de la francophonie, respecting its participation at the APF Bureau meeting held in Brussels, Belgium, on July 5, 2005, and at the thirty-first annual session of the APF, also held in Brussels, Belgium, from July 6 to 9, 2005.

[English]

QUESTION PERIOD

CANADA-UNITED STATES RELATIONS

MAINE—PROPOSED LIQUEFIED NATURAL GAS TERMINALS

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, my question to the Leader of the Government in the Senate relates to the project that is being proposed in Northern Maine across the Passamaquoddy Bay. We have had the opportunity to raise this issue on the floor of the Senate previously. Was it one of the topics of discussion when U.S. Secretary of State Condoleezza Rice was in town this week? Did the Government of Canada urge the Secretary of State to have the Government of the United States do what it could to underscore the tremendous environmental threat should that project go forward, a threat that would impact Canada so adversely?

Hon. Jack Austin (Leader of the Government): Honourable senators, I would have to make inquiries to see whether discussions were held on that topic.

Senator Kinsella: It is my understanding that American Ambassador David Wilkins has stated that the facility will be built if it is sanctioned by the U.S. approval process, irrespective of Canada's wishes. Will Canada make a submission to the

U.S. approval process mechanism, in particular the environmental assessment, when the application is examined? It is clear to anyone who has sailed through that narrow passageway — in particular the largest whirlpool in the world that is affected by tides, which is called Old Sow — that the ability of tankers to make a right-angle turn is affected such that a terrible catastrophe will occur.

It is important for the Government of Canada to make an intervention in the U.S. approval process forum. Is the government giving consideration to doing just that?

Senator Austin: Honourable senators, I will make inquiries to learn whether Senator Kinsella's representations are being considered.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

KASHECHEWAN RESERVE—WATER QUALITY

Hon. David Tkachuk: Honourable senators, my question concerns the water quality and supply emergency on the Kashechewan reserve in Northern Ontario. The community has been under a boil water advisory since 2003. Two weeks ago, water sample tests found the presence of the dangerous E. coli bacteria. The water quality has been blamed for stomach problems, severe skin infections and open sores. There are also reports of an outbreak of hepatitis A.

Yesterday the Premier of Ontario said that the federal government's response has been "missing in action" and ordered the evacuation of the community to Sudbury. In light of the fact that the provincial government has had to step in and take charge of the situation, what actions did the federal government take in the week leading up to the evacuation order?

Hon. Jack Austin (Leader of the Government): Honourable senators, this is an unfortunate situation that has been allowed to develop, and it should have been dealt with previously. As the Prime Minister said, the Government of Canada takes its responsibilities seriously. The Minister of Indian Affairs and Northern Development, the Honourable Andy Scott, will make an announcement later today with respect to further actions that the government is taking.

Senator Tkachuk: Honourable senators, two days ago, on October 25, the Department of Indian Affairs and Northern Development released its so-called action plan to deal with the crisis on this reserve. Two weeks ago, the government knew that there was E. coli there. The plan consisted of little more than continuing the bottled water shipments and initiating a water quality study. It was merely proof of the neglect that led to the crisis in the first place. Why did the federal government choose to maintain the status quo rather than dealing proactively with this water quality emergency?

Senator Austin: Honourable senators, my understanding is that on October 12 of this year a mechanical malfunction at the water treatment plant on the Kashechewan First Nation reserve gave rise to the concern regarding the presence of E. coli.

The Government of Canada has an agreement with the Province of Ontario under which it is their responsibility to respond but our responsibility to pay the costs of a response, so the definition of the concern is, by agreement, theirs.

Minister Scott was on the property in August and was made aware of the issue there. He was assured that engineering steps would remediate the problem and ensure the water quality. That has not been the case. Therefore, the decision to take the current step of removing people from the area to protect their health was necessary.

The Government of Canada has a water remediation program and has committed close to \$2 billion, I believe, to improve water treatment on Aboriginal reserves across this country. Measures were being taken. Fortunately, no one was seriously injured by this water quality issue and the next steps will be announced by Mr. Scott later today.

Senator Tkachuk: Honourable senators, I do not want to be argumentative, but I do not know whether we can say that no one has been injured because these people have been under a boil water advisory since 2003, which means there was probably already fecal matter in the water but it had not yet become the E. coli virus. It is embarrassing for a country like Canada to have let a situation like this continue for two years, with no action being taken by the federal government. I would ask the Leader of the Government in the Senate to make inquiries to ascertain whether any federal departments or the Prime Minister's Office received representations in recent weeks from Phil Fontaine, the Grand Chief of the Assembly of First Nations, concerning the water crisis on this particular reserve and, if so, perhaps the leader could table such representations in this chamber.

• (1400)

Senator Austin: I will be happy to make inquiries with respect to any communication received from Grand Chief Phil Fontaine. As I have said, this issue was one of concern and was brought to Minister Scott's personal attention in August.

HEALTH

CANADIAN CANCER SOCIETY—FUNDING AND ADOPTION OF NATIONAL CANCER STRATEGY

Hon. Wilbert J. Keon: Honourable senators, my question for the Leader of the Government concerns the national cancer strategy. Last week, the Minister of Health announced funding of \$59.5 million over five years for a national cancer strategy. This amount is far less than the \$260 million that cancer groups have said is required. In response to the funding announcement, the Canadian Cancer Society described it as just a down payment and said, "More funding is needed to have a real impact on this disease." Why did the federal government choose to allocate less than the society requested; and will there be an adjustment?

Hon. Jack Austin (Leader of the Government): Honourable senators, the creation of a national cancer strategy is of critical importance. Understanding the appropriate steps to do with a national strategy, determining whether to create centres of excellence or to support the existing centres of excellence, and

receiving advice from the Canadian Medical Association and from its peer groups with respect to the strategies that will fall within an umbrella strategy, are all issues that are being considered and assessed. There is some interest in the submission but also some concerns that the targeting of the spending may not be the best way to use money to fight cancer. That is the subject of study today, and I hope it moves forward quickly.

Senator Keon: In keeping with that, the Canadian Cancer Society says that a strategy has been developed, and *The Globe and Mail* has reported that internal differences between Health Canada and the public health agency have kept the federal government from announcing its adoption. *The Globe and Mail* also claims that the Minister of Health and the Minister of State for Public Health have a serious difference of opinion about this strategy at the present time and that all of these forces are converging to delay progress and an announcement.

Could the leader tell us if every effort is being made to resolve this situation, to come to a consensus, and to get make an announcement and, hopefully, a further adjustment in the funding?

Senator Austin: Honourable senators, I do not adopt or agree with the comments made in *The Globe and Mail* with respect to conflicts amongst various sectors and centres that deal with this particular issue of cancer and how the Government of Canada should be approaching the furthering of our capacity to deal with cancer.

As I said, a number of issues are relevant in deciding what strategy to adopt and what the sub-strategies should be. For example, in my province, the B.C. Cancer Institute has made substantial financial requests and presents a view of its expertise that needs to be considered and discussed. Of course, other cancer centres in Canada also have expertise and views on what they should be allowed to do. Therefore, we need an overall strategy, and we need a reconciliation within the peer groups of their particular way of proceeding so that we do not spend money on unnecessary duplication in different locations in the country.

The federal government and the provinces also require peer group advice with respect to the evaluation of various research submissions. The CIHR is the federal instrument for making peer group decisions, and I know Senator Keon is familiar with its approach to cancer. It has made some interesting commitments, interesting both as to what they have done and what they have not accepted.

FOREIGN AFFAIRS

IRAN—STATEMENT BY PRESIDENT REGARDING ISRAEL

Hon. A. Raynell Andreychuk: Honourable senators, Senator Tkachuk raised the issue of the statements made by the President of Iran. Could the Leader of the Government in the Senate tell us what action the Government of Canada will take bilaterally or internationally with respect to these most troubling statements?

Hon. Jack Austin (Leader of the Government): The Prime Minister responded yesterday, and Senator Tkachuk made reference to the Prime Minister's denunciation of the statements made by the President of Iran.

As for action, honourable senators, the matter is at the beginning of an assessment.

Senator Andreychuk: In light of the severity of the comments, will the government consider taking this issue to the United Nations? I am not talking about expulsion, which I think is counter-productive.

Senator Austin: I take it Senator Andreychuk is making that recommendation, and I will certainly pass it on to the Minister of Foreign Affairs. I know Senator Andreychuk is aware that countries such as France and Spain have also been equally condemning of the statement made by the President of Iran.

[Translation]

ISRAEL—SIGNING OF NUCLEAR NON-PROLIFERATION TREATY

Hon. Marcel Prud'homme: Honourable senators, in order to clarify the situation and, dare I say it, even to help some of our colleagues understand Canada's foreign policy toward that part of the world, could not the Minister of Foreign Affairs, my successor as an MP, reiterate the Canadian policy, which is to also call upon the State of Israel to sign the Nuclear Non-proliferation Treaty? It seems that is a forbidden topic. This is not a policy I or some troublemakers have invented; it is Canadian policy, though not one we hear much about.

Each time I hold discussions with Foreign Affairs, I am told that we want Israel to sign the Nuclear Non-Proliferation Treaty, since they have had hundreds of nuclear, biological and other weapons for several decades. It would be a good thing to comply with the wishes of Senators Tkachuk and Andreychuk, as well as myself, on better negotiations with Iran and on showing Canada's balanced approach. As I said, I spoke with them last week. I also spoke with people from Iran before coming into this chamber, indicating to them that this statement was certainly unacceptable and does nothing to help the current discussions.

Could we ask you, Mr. Minister, to ask the Minister of Foreign Affairs and the Prime Minister of Canada to officially reiterate Canada's policy on the Middle East with respect to nuclear weapons and the non-proliferation treaty, which Israel has never signed? I think that is a reasonable request.

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Prud'homme raises an important issue. The world community has been concerned, even, I might add, significantly concerned, with Iran's nuclear program. It has entered into non-proliferation obligations. According to the International Atomic Energy Agency, it is in breach of those obligations. Discussions are under way with respect to a reference of those breaches to the Security Council.

• (1410)

There have been many occasions where Canada has joined in protesting the actions of deception and concealment that the IAEA identified with respect to Iran's nuclear programs.

Given the statement made by the President of Iran regarding Iran's disclosed objective with regard to its relations with Israel, which is to ensure the destruction of Israel, the question raised about Israel's nuclear program is one that is probably a second step.

I cannot speak for the Minister of Foreign Affairs on this issue directly, but I know that past discussions with Israel have not caused Canada or the United States alarm with respect to its nuclear program, if they have one. They refuse to acknowledge such a program. The conclusion is that Canada has not been alarmed with whatever it understands Israel's program to be, but the world community is quite alarmed with respect to Iran.

Senator Prud'homme: Honourable senators, I have heard that the policy of the Canadian government has not been reaffirmed in the world. The Canadian policy must continue publicly; it is not a personal policy. I am clearly expressing my opinion with regard to the policy of the Government of Canada, on behalf of all political parties, that Israel should sign the non-proliferation treaty.

I say to the honourable senator, as someone who has followed this issue for 51 years, that it would help if we were tougher. In the name of Canadian equilibrium, we should remind our friend, not ally, the State of Israel, that they should sign the non-proliferation treaty, thereby admitting they have been a nuclear power since the beginning of the arms race 40 years ago. The arms race between the Soviet Union and the United States began with the U.S., our friend and neighbour, at the end of the Second World War when two nuclear bombs were detonated.

For 30 years, we have continued to deny that Israel is a nuclear power. Even I, as a former chairman of Foreign Affairs and National Defence, was asked never to mention the issue. We know that Israel is a nuclear power, and they encourage their neighbours to take part. We also know their neighbours cannot possibly participate, intellectually or scientifically, but they can buy the technology. That is what is happening in that arms race.

Senator Austin: Honourable senators, I do not know whether a question has been posed, but Senator Prud'Homme has alluded to an issue.

Canada's official position is that Iran must suspend all activities related to uranium enrichment until a satisfactory agreement is reached with the IAEA, the U.K., France and Germany, which are representing the international community. Their resumption of conversion is a breach of the Paris agreement and successive IAEA resolutions.

Canada believes that if Iran does not resume the suspension of all uranium-enrichment activities, the IAEA must take immediate action and report the issue to the United Nations Security Council.

With respect to the honourable senator's representations regarding Israel, if he has evidence that anything Israel does might be related to Iran, I would be delighted to consider it with him.

Hon. Yoine Goldstein: In the name of "equilibrium," terminology that has just been used by the honourable senator, is there any equation to be made between the mere non-signature in compliance of a treaty, on the one hand, and a call for the eradication of a state by force, on the other?

Senator Austin: Honourable senators, I could not have put the equation better.

ORDERS OF THE DAY

PUBLIC SERVANTS DISCLOSURE PROTECTION BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Smith, P.C., seconded by the Honourable Senator Eggleton, P.C., for the second reading of Bill C-11, to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I rise to participate in the debate and second reading on an important legislative initiative that finds its roots in earlier work by this chamber.

I would like to begin by pointing out to honourable senators, with the greatest of modesty, that many of us in this chamber support the general principle of the bill, and I particularly support it. However, there are still problematic issues of detail, and I hope to address some of those now.

As Senator Smith clearly pointed out the other day, Bill C-11 aims at the prevention of wrongdoing in the public service by establishing a framework for ethical practices in the workplace dealing with allegations of wrongdoing and protecting whistle-blowers.

This bill addresses a concern that many of us have held in this chamber, and it is decidedly overdue. We are far behind our colleagues in Australia, the United States, New Zealand and the United Kingdom in enacting such legislation.

As Senator Smith discussed in the chamber on October 25, no one is sure why this bill has taken so long to come into being, especially given that it was a Liberal commitment in the 1993 federal election campaign to do so. There is written documentation expressing in black and white a commitment that after the election of 1993, the government would be bringing in a whistle-blowing bill. It is now 2005, so that commitment was made 12 years ago.

Honourable senators, Bill C-11 represents another chapter of what has become an unacceptable long story of delay and slow commitment by this government. We are satisfied that the Conservative initiative to keep this item on the front burner has been successful. The need in today's world to protect public service employees is critical at a time when the complexity of the workplace and of the various dynamics that come to bear on the safety and rights of citizens is different from times past. Thus, some time ago in this chamber we recognized that it was critical for us to have a solid piece of whistle-blowing legislation — a mechanism that would be effective so that unethical and corrupt conduct would not be allowed to gain a foothold.

• (1420)

Unfortunately, our initiatives were undermined at every opportunity by the current government in an inexplicable manner, given the reliance of the government on the concept of such protection, touted, as I mentioned, in the election promises of 12 years ago. My private member's bill, Bill S-6, was embraced by this chamber and it was well studied by senators in the National Finance Committee. The then responsible minister wanted to try to deal with whistle-blowing through a policy model. Most senators on the committee were skeptical of the effectiveness of such a policy approach but that is what did unfold. Only after the public integrity officer, who was appointed under that policy approach of Treasury Board, stated that he was incapable of protecting employees, did the government concede that, indeed, the Senate was right in saying that legislation was needed.

In response, the government introduced the highly deficient Bill C-25, which, rather than protect whistle-blowers, would protect public service employees in name only. The bill proposed that employees would be required to report their concerns internally to their supervisors rather than to a neutral third party. Victims of reprisals were not protected; the commissioner did not report directly to Parliament; and the bill contained a laundry list of exempted employees. With the election call in 2004, Bill C-25 died on the Order Paper, and its loss was not overly mourned by many. The shortcomings of the approach in Bill C-25 became more evident when Auditor General Fraser decried the existence of a reign of terror at the Office of the Privacy Commissioner, and then the sponsorship scandal blew wide open.

Despite the path that government ought to have pursued to remedy the situation, it chose to introduce yet another bill that fell far short of providing real protection to public service employees. Even after embarking on the third round of discussions on this topic, the government still held fast and promoted the draft of Bill C-11 that was first introduced in the other place. At that time, Bill C-11 ignored the need for an independent third party to evaluate disclosures and, instead, promoted a system wherein those accused with abusing the system would be charged with rectifying it internally.

Employees were protected only in cases where they could provide complete information on the wrongdoing. Simply providing information would not be sufficient to trigger the new act. Quite unbelievably, the provisional draft of Bill C-11 attempted to protect not public service employees but

politicians from the wrath of a disgusted electorate. Any revelations made by employees were to be kept secret for 20 years, which is more than enough time for the remnants of any potential scandal to dissipate and for the key players to have changed.

Major government entities were not included in the original draft of Bill C-11 and the commissioner was not permitted to investigate disclosures made from the public.

It is only through the diligent work of the members in the other place, as indicated by the Honourable Senator Smith, that these gross missteps were corrected in the House committee. Significant amendments, in particular to the original draft of Bill C-11, have been made. I agree with Senator Smith that the bill has been greatly improved from the first draft that was initially introduced in the other place.

While those amendments represent a step in the right direction, the bill, as adopted in the other place and received in the Senate, still contains problematic deficiencies that necessarily raise the question: Is this bill intended to protect public service employees who uncover and report wrongdoing; or does it serve to create a regulatory system that will inevitably exclude and discourage many sincere whistle-blowers from disclosing deficiencies to the public?

Bill C-11 offers no protection to those whistle-blowers who do not follow the bill's procedures exactly, irrespective of how accurate the information may be. The bill should protect all disclosures made in good faith, regardless of whether the employee has successfully navigated the complex, legalistic statute.

As well, the bill before the house does not recognize the particularly abhorrent nature of acts of revenge against an employee who acts in good faith to return honesty to the public service. The bill does not provide specific remedies for employees who are targeted for speaking the truth. They have only costly and often inaccessible and intimidating wrongful dismissal legal processes. Additionally, the definition of "reprisal" in the bill is unnecessarily narrow and could conceivably not include a broad range of subtle, yet equally insidious, actions intended to punish the employee for making a good faith disclosure.

Honourable senators, we have learned a great deal over the years about discrimination perpetrated out of ill will as well as intent-neutral discrimination, otherwise known as systemic discrimination with its adverse effects. It would seem that whistle-blowing legislation should deal with systemic issues of unethical conduct, systems and processes in the public service.

Further, the identities of individuals who abuse the public trust, who manipulate their positions of power and who defraud Canadians are still protected because the bill contains no provisions that determine when rulings may be made public. The identity of wrong-doers is protected. As if this oversight were not enough to reduce the public's faith in the intentions of the government, Bill C-11 still allows for the protection of information for five years.

Honourable senators will find the term "chief executive" in the interpretation section on page 2 of the bill. The term "chief executive" is described as the deputy head or chief executive officer of a department.

• (1430)

I underscore the point because one might see in that kind of terminology an attempt to utilize private sector organizational concepts and language to deal with the public sector. I submit that the public sector is a radically different environment than the private sector. In the public sector, citizens are not clients and we see that term used often. "Stakeholder" is another term that arises. When I saw that term, "chief executive," I asked what was wrong with the term "deputy minister."

Honourable senators, there is a new language or vocabulary, but that may speak to a different concept of the public service than we read in one of the preambular paragraphs that speaks to an extension of Parliament.

Under this bill, the deputy minister or chief executive may opt to refuse to disclose any records pertaining to whistle-blowing under the access to information system or the privacy legislation for this five-year period that I mentioned. However, I will quickly add that five years is much better than the 20 years that was in the original draft of the bill.

Bill C-11 does not extend protection to a large number of employees who work on contract or as consultants with the public service. This group forms a large part of the machinery of government. Such individuals on contract or consultants are often privy to the same information and have the same responsibilities as a full-time public service employee, yet this bill does not afford them the same consideration under the law. This arbitrary distinction undermines the rationale for the bill.

Treasury Board cannot have it both ways. They are trying to keep the size of the formal public service down by hiring people on contract, and consultants, because they want the flexibility of management. In conjunction with that practice, one must ask what the safeguards are. What are the safeguards in terms of fairness in hiring when a greater reliance is placed upon hiring these consultants or these contract employees?

Some suggest that this practice is a way to avoid the public service employment process and that many abuses could find their way forward by using that process to staff the public service rather than the traditional process of public competition. That issue is really a different issue, but an important one.

That discussion relates to this bill in that a large number of persons working in the public sector do so as consultants or as contract employees. They could apprehend the same kind of wrongdoing as persons who were covered as full-time members of the public service. Therefore, they ought not to be excluded from the operation of the whistle-blowing legislation.

An equally troubling oversight is the ambiguity over the role of unions in the whistle-blowing framework. Collective bargaining is not a bad thing. It has been effective and has brought significant fairness to the Canadian employment sphere, both in the public sector and the private sector. Unions do not have a clear role in

under Bill C-11. Bill C-11, for example, as is styled before us, does not allow for representatives of bargaining units to be included in the process. There is a good record of public service unions, the various offices of the unions and the shop stewards and so forth protecting not only the employment rights of public servants, but also the content of the work that is done by their members in the public service. By nature, there is not an inimical relationship between public sector unions and the public servants themselves. There is no necessary conflict of role or function.

Over the years some managers in the public sector have adopted a view that somehow unions are bad and not to be trusted. I do not think that is acceptable and I do not think it is true.

Given the real history of the work of the public sector unions in Canada, at both the federal and provincial levels, that role they have played is essential in protecting public servants and their members. Their role in the framework of whistle-blowing must be more thoroughly contemplated and we will continue to contemplate that as we study this bill.

Bill C-11 still permits the Prime Minister's cabinet to exclude certain Crown corporations and other bodies from the scope of the legislation. Once again, the very officials who may be responsible for wrongdoing are permitted to make determinations that can affect potential investigations. We have seen that the sponsorship scandal involved just these types of Crown corporations and often involved officials at the highest level. If a fraud is committed, can we really expect those involved not be tempted to exercise their discretion to cover up a potential disclosure, especially in this time of precarious parliaments?

The version of Bill C-11 now before the Senate is fundamentally different from the bill first introduced and debated by the committee of the other place. Some of these provisions that are now in the bill before us have not been previously reviewed by a committee of parliamentarians. The nature of the amendments suggested creates a distinctly different piece of legislation, and our traditional role of review is actually a first opportunity for analysis.

Some witnesses who will appear before our Senate committee may wish to have an opportunity to be heard and to have their comments on the bill that was amended subsequent to their contribution to the study of the bill in the other place. Our Senate committee work will be greatly facilitated by hearing from those witnesses. For example, we do not need to spread out the hearing of these witnesses, but the kinds of witnesses that we really want to hear from are those who understand this kind of legislation. We would benefit from having their counsel and their analysis on the bill that we are now examining, which is so different from the one that they spoke to before.

• (1440)

By way of suggestion, I hope that individuals who have experienced personally whistle-blowing reprisals, such as Joanna Gualtieri, Allan Cutler, Margaret Haydon to whom Senator Spivak alluded, as well as other individuals, such as Rubin Friedman, Professor Ned Franks and Professor Hodges, will be called upon to give evidence. Clearly, we will want to hear from officials of the ministry and those officers who served under the other policy model, such as the Public Service Integrity Officer.

I should like to see representatives from a couple of line departments appear as witnesses, such as the Department of Health, the Department of Agriculture, Canada Post and the CBC. As well, it would be helpful to hear from a number of advocacy groups. I would refer to some that appeared before the House committee and others that did not, such as the Canadian Newspaper Association, the Professional Institute of the Public Service of Canada, clearly, CUPE, and a few experts, both Canadian and those from other countries, in particular the public accountability project people in Washington. It would be most helpful to hear from these people to inform the clause-by-clause analysis that the committee will be undertaking.

Honourable senators, the meaning of certain terms in Bill C-11 could do with some explication and clarification, to say the least. Some of the terms are a little confusing and, perhaps, poorly understood.

Honourable senators have raised serious constitutional questions regarding the designation of the Public Sector Integrity Officer. Such thoughtful and probing questions must be pursued and aggressively investigated at the committee level.

I have pointed out the continued failings of this bill. I encourage all honourable senators to demonstrate extra diligence during the committee review of the legislation, as I submit that it could be further improved by thoughtful amendments in the Senate.

We have entered an age in Canadian politics and public affairs that is mired with suggestions of corruption and scandal. We can ill afford an act that purports to protect people who try to restore integrity to the system, if it will make it more difficult and complicated for them to come forward. It is not logical that an act intended to encourage disclosure contains a presumption in favour of government secrecy. To implement such a presumption in favour of secrecy only broadens the category of information that will eventually be withheld from the public. The status quo should be a presumption of transparency, unless the government can establish or prove an exception should be made. It should not be the other way around.

Canada has steadily slipped to its lowest ranking of all time in the Transparency International Corruption Perceptions Index. Canada has dropped almost 10 places in the last decade due to a marked increase in the perceived level of corruption in government. When business people and analysts are telling the international community that Canada is an ever increasingly corrupt country, we must ask ourselves why. We must endeavour to ensure that confused and contradictory legislation such as Bill C-11 does not further serve to damage our international reputation and denigrate the trust of our citizens in our government.

Bill C-11 potentially creates an emergency exit for top-level decision makers to make exceptions to refuse to disclose and to exempt themselves from the impact of the whistle-blowing framework. The effectiveness of Bill C-11 is greatly diminished if it does not apply objectively and without exception to the entire upper echelon of government.

In evaluating this bill, I remind honourable senators that we might want to keep in mind the adage, corruptio optimi pessima—the corruption of the best is the worst—to ensure this bill fulfills its original intention and does not inadvertently create a framework of possible loopholes and escape hatches for those among the highest ranks of government. We look forward to the work of the committee.

I underscore support for the bill in principle. However, I think we can come out of committee with a much better and a much improved bill than the one we have here, although I recognize that we have come a fair distance with Bill C-11 from where we were a few years ago.

The Hon. the Speaker: Will Senator Kinsella take a question?

Senator Kinsella: Certainly, honourable senators.

Hon. Lowell Murray: Honourable senators, notwithstanding the reservations to which the honourable senator has referred, I have no doubt that Senator Kinsella is entitled to a good deal of satisfaction, as well as to our congratulations, on seeing his tenacious efforts over so many years now apparently about to bear fruit in the form of this government bill. I congratulate him on that.

I regret to say that I was not in my seat on Tuesday when the sponsor of the bill, Senator Smith, gave us a comprehensive overview of Bill C-11. However, one or two things that caught my attention. I would ask Senator Kinsella to comment on them and perhaps Senator Smith, when he closes the debate, will deal with them.

The first concerns the organizations that are excluded from the application of the bill, including the Communications Security Establishment, CSIS and the Canadian Forces. Senator Smith points out that each of these organizations must establish its own disclosure and reprisal protection regimes similar to those set out in this bill and satisfy Treasury Board that they have done so. It occurs to me that, first, in the spirit of parliamentary cooperation to which Senator Smith referred in his speech, and, second, because Parliament is so central to this whole exercise and to the future success of this legislation that it should not rest only with Treasury Board to be satisfied that the CSE, CSIS and the Canadian Forces, for example, have disclosure and reprisal protection regimes similar to those in the bill. Parliament ought to have something to say about that. I think Parliament ought to have the right to make a determination in that regard. Would the honourable senator comment on that?

Another matter to which the honourable senator alluded, as did Senator Spivak in her speech yesterday, is that this bill gives the Governor-in-Council the right to add or delete any Crown corporation or other public body from the list. As we know, this is a fairly routine provision in a lot of legislation. The Crown is given the right to add or delete bodies from the schedule. Again, in a statute in which Parliament is so central, it seems to me that the government ought not to have the right by itself to do that. There should be some reference to Parliament.

Would the honourable senator care to comment on those issues?

Senator Kinsella: I thank the honourable senator for his questions. He is absolutely correct with regard to his first one. In clause 2, which is the interpretation section of the bill, the public sector is defined as not including the Canadian Forces, the Canadian Security Intelligence Service or the Communications Security Establishment. There should be some kind of oversight of those.

• (1450)

We are learning in the work of the special Senate committee, that is reviewing the anti-terrorism legislation, the importance of these special agencies in terms of the defence of the country, and we recognize that sometimes special power or special authority is given in free and democratic societies. We also recognize that if we establish an oversight mechanism even for those kinds of agencies, particularly parliamentary oversight, the potential for abuse is then minimized.

The committee should delve into whether or not we can find a way to give further thought to that particular provision.

Everything is an extension of the executive and it is precisely because of the mismanagement and the abuses with which the executive has been tainted that we have the need for this legislation. Clearly, I share the view of Senator Murray that Parliament should play a role in the listing or the delisting of those Crown agencies.

Hon. Serge Joyal: Honourable senators, I listened to the honourable senator carefully, especially when he mentioned the constitutional status of the officer created in clause 39 of the bill.

Is the honourable senator satisfied that the status of the officer as defined in the bill meets all the constitutional assurances of the independence of the officer? That is a key element of his or her effectiveness in satisfying the objectives of the bill. There must be assurance to Parliament that he or she is fully protected to ensure that he or she remains independent from the executive. I see the new system functioning such that the public servant who wants to report a wrongdoing must have the strong conviction that the officer to whom he is reporting is far enough from the reach of the government to offer the required protection. Parliamentarians must be reassured that in the constitutional and institutional structure of government the officer has the capacity to perform his or her duties. I rely on the honourable senator's long interest in the public service. Is he satisfied that the bill as it is now drafted meets all those requirements?

Senator Kinsella: I thank the honourable senator for raising that important question, which he also raised with my colleague Senator Smith on Tuesday. Since that time I have been reflecting on it as well. My answer is: No, I am not sure.

The first preambular paragraph of the bill reads:

...the public service of Canada is an important national institution that is part of the essential framework of Canadian parliamentary democracy.

I hope that I am not too old fashioned. I do not subscribe to the idea that everything must remain constant, but we must be careful as we grow these offices, particularly with regard to their

relationship to Parliament. When one does a quick brush of these officers of Parliament — the Auditor General, the Privacy Commissioner, et cetera — in some instances it is the intent of the bill to give special protection to an administrative officer. It is as if Parliament is being used as a defensive mechanism, unless there indeed is meant to be an essential, substantive relationship between Parliament and that officer.

I do not know the answer to the honourable senator's question, but it is one on which the committee will have to reflect. We recognize that many of these officers have appeared on the landscape in the last 15 or 20 years. I do not think we have done much analysis, and I do not think we have a satisfactory parliamentary theory as to where they fit in.

The honourable senator's question is an excellent one, and we should do some probing to see whether we can come up with a common understanding.

Hon. David P. Smith: Honourable senators, I believe these are valid questions that can be dealt with at committee.

The Hon. the Speaker: I should advise honourable senators that if Senator Smith speaks to the bill now, his speech will have the effect of closing the debate.

Hon. Marcel Prud'homme: Honourable senators, I will speak. I am glad that Senator Murray has touched upon the two points I raised on October 25. I made a mistake by saying that the RCMP was not involved. It has been amended and I am satisfied. I was concerned that CSIS, the other security services and the Canadian Armed Forces are not involved.

I will not speak further on this subject, except to reiterate that I will go to the committee if there is no conflict. However, I am very concerned. Much representation has been made to some of us, perhaps because we are independent senators. I hope not. I do not want a stampede. I have already had five phone calls following my earlier intervention.

In order to keep my equilibrium, I called the Iranian embassy to tell them exactly where I stand on the issue. That may satisfy some here in this house.

Honourable senators, we should be concerned about the immense number of bureaucrats who are worried about the protection to which they should be entitled for their remainder of their careers if they become whistle-blowers.

I am not an expert. Senator Kinsella has been involved with this subject for many years. Senator Murray understands it, but I do not understand it as much as I would like.

My hope is that the committee will invite as many witnesses as possible so that senior civil servants and those at the lower levels, who sometimes see more than those at the higher levels, will feel at ease with this legislation that is so important to the government and which has been a long time in the process.

These one my

Those are my only comments for the time being, but I wanted to place them on the record. I will be listening for Senator Smith's usual wisdom, and I will follow up in committee.

Senator Smith: Honourable senators, the valid questions raised today can be studied thoroughly and in good faith, as was the case when the matter was dealt with in the other place at committee.

I move second reading of this bill.

The Hon. the Speaker: The concluding speech of Senator Smith prompts me as the Speaker to now put the motion.

It was moved by the Honourable Senator Smith, seconded by the Honourable Senator Eggleton, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Smith, bill referred to the Standing Senate Committee on National Finance.

(1500)

TELECOMMUNICATIONS ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Claudette Tardif moved second reading of Bill C-37, to amend the Telecommunications Act.

She said: Honourable senators, I am pleased to rise today to commence the process of second reading of Bill C-37, to amend the Telecommunications Act.

The amendments being proposed to the Telecommunications Act strengthen the role of the Canadian Radio-television and Telecommunications Commission, the CRTC, under the act with respect to the regulation of telecommunications facilities for unsolicited telecommunications to prevent undue inconvenience or nuisance.

The goal of this bill is to create a smart and right regulatory environment for sensible, smart telemarketing. We want to safeguard the privacy of Canadians and their right to choose with whom they wish to communicate.

[Translation]

The need to make changes to the Telecommunications Act was identified by the CRTC itself and by the Canadian Telemarketing Association. The government then decided that it needed to intervene in order to resolve the problems in the current system by

introducing this bill to facilitate the establishment of a national do-not-call list. To this end, the bill proposes the creation of a legislative framework that would help solve the problem of unsolicited telemarketing, by creating a national do-not-call list.

The bill will enable the Canadian Radio-television and Telecommunications Commission, or the CRTC, to do three things: first, impose fines for non-compliance; second, establish a third party administrator to operate a database; and third, set fees to recover the costs associated with maintaining the list.

Unsolicited phone calls have become an inconvenience and a nuisance for many Canadians.

[English]

In an Environics survey conducted in 2003 for Industry Canada, fully 97 per cent of respondents reported a negative reaction to unsolicited calls. Of those, 38 per cent said they tolerate the calls; 35 per cent reported being annoyed by them; and 24 per cent said they hated receiving them. The majority of respondents, almost 80 per cent, supported the creation of a national do-not-call list; some 66 per cent indicated they would likely sign up for a do-not-call service. This evidence is supported by yet another survey, the Ekos survey, which estimated that 61 per cent of respondents want to stop receiving telemarketing calls.

The CRTC, the federal agency responsible for regulating unsolicited telemarketing, receives thousands of complaints a year from Canadians frustrated with their inability to control unwanted calls. Last year alone, the CRTC received some 9,000 calls from dissatisfied Canadians on the subject. Under the present regulatory regime, enforcement is ineffective because it is difficult to establish proof of registration on company-specific lists and because, as the CRTC itself has recognized, telemarketers appear undeterred by the present regulations.

[Translation]

I would like to remind honourable senators that the CRTC imposed limitations on telemarketing in 1994. These limitations included a requirement that telemarketers maintain individual do-not-call lists. This provision, however, required consumers to enlist with each telemarketer separately, and there may be hundreds of telemarketers. The consumer has no way of knowing when his or her number may find its way onto another telemarketing list. For example, as a senator with easy access to all legislation, I was not aware that under the current provisions of the legislation, I could ask a telemarketer to strike my name off his calling list. I imagine the average consumer might not have known that either.

It is not surprising, therefore, that many consumers consider this solution unsatisfactory. I would also like to point out to honourable senators that following public consultations, the CRTC itself found that the existing regulatory system was inadequate to allow it to establish a list, impose fines for non-compliance and to establish a third party administrator to operate a database. The legislation needs to be amended in order to give the CRTC the authority to create and maintain such a list.

[English]

Other countries have introduced regulations to protect customers from unwanted telemarketing calls. In 2003, the U.S. federal trade commission launched a national do-not-call registry. Some 62 million Americans subscribed to the registry in the first year. By the end of the second year, 92 million Americans had signed up.

Honourable senators, the bill before us is premised on the proven experience of the United States. It provides the CRTC with the necessary powers to implement and enforce a national do-not-call list. It will enable the CRTC to impose fines for non-compliance, establish a third party administrator to operate a database, and to set fees to recover the costs associated with running the list.

The CRTC has long-standing experience in managing telemarketing. It has been doing so since 1994. The CRTC also has proven experience in delegating to an administrator and engaging third parties, and it is a quasi-judicial regulator with some judicial powers.

With the proposed three amendments, both the CRTC's role and general enforcement of the Telecommunications Act would be strengthened. The amendments propose penalties of \$1,500 per offending call for individuals and \$15,000 per offending call for corporations or telemarketers who do not respect the list.

• (1510)

This bill provides the CRTC with guidance on the telemarketing activities that should be subject to a national do-not-call list. In particular, the bill provides exemptions for certain groups. These include registered charities; companies with whom the client has had an existing business relationship; survey and polling activities; political activities, such as registered political parties, nomination or leadership candidates or candidates of a political party; and newspapers.

These exemptions are similar to those identified in the United States. During committee hearings, it was agreed upon that without exemptions, certain organizations such as registered charities would lose a major part of their fundraising activities and resources. Experience in the United States has shown that with similar exemptions, unsolicited calls dropped from 30 to 6 per month for those who subscribed to the list.

[Translation]

Honourable senators, Canadians are expecting to be provided with a service that will easily and efficiently curb unsolicited telemarketing. To ensure this, the bill includes review mechanisms to determine whether the national list is meeting expectations.

Under this bill, the CRTC would be required to report yearly to the Minister of Industry on the operation of the national do-notcall list. The bill also provides that, after three years, a committee of the House of Commons, of the Senate or of both Houses of Parliament would be established to review the administration and operation of the national do-not-call list. The list will be administered at no extra cost to Canadian taxpayers. If the bill is passed, it is expected that the costs will be recovered from the telemarketing sector. This means that the telemarketers will be the ones paying.

[English]

It is not only consumers that support the establishment of a national do-not-call list. Many telemarketers prefer a national list over the current regime. The Canadian Marketing Association believes a compulsory do-not-call service for all companies that use the telephone to market their goods and services to potential customers is the most effective means to curtail consumer annoyance with telemarketers.

Honourable senators, the Privacy Commissioner of Canada also advocates the creation of a meaningful, mandatory, national do-not-call list. In her address to the Standing Committee on Industry, Natural Resources, Science and Technology, the Privacy Commissioner of Canada, supported by nine of the provincial-territorial information and privacy commissioners, highlighted the importance of establishing a national do-not-call list to help Canadians protect their privacy.

[Translation]

By passing this bill, we will enable the CRTC to move quickly on this issue. It will undertake further consultations on the fees to be collected, the selection of the organization responsible for administering the list, and other matters.

Telemarketing has become increasingly widespread. There is no indication that it is just a passing fad. In addition, the inability to control a telemarketer's access to phones in our homes and businesses has become a source of frustration for a large percentage of Canadians.

[English]

With this bill, we provide a responsible framework for a Canadian do-not-call regime. It equips the CRTC with the necessary tools to implement and enforce a national do-not-call list. In this way, we will give Canadians an easy, effective way to curtail intrusive calls. We will take steps to protect their privacy. I urge you, honourable senators, to support this bill.

Hon. Senators: Hear, hear!

Hon. Pierrette Ringuette: May I ask a question? I appreciate the statement by the honourable senator.

[Translation]

However, we must not forget that the CRTC has jurisdiction solely in Canada. Most telemarketing firms, which influence consumers to some extent, are not located in Canada. Last week, I got a telephone call from India. The CRTC would have no jurisdiction over these firms. However, in New Brunswick, for example, jobs are being created by some credible telemarketing firms.

Right now, I have some concerns that this may threaten jobs in New Brunswick because New Brunswickers are bilingual. Ultimately, not all telemarketing being conducted in Canada originates in Canada and will not come under the CRTC's jurisdiction. That is my fear.

Senator Tardif: I want to thank Senator Ringuette for her question. In fact, on June 8, the Privacy Commissioner indicated that a number of countries shared their data. The commissioner was referring, above all, to the United States, and the fact that the do-not-call lists were shared.

My information indicates that the majority of call centres receive inbound calls, meaning that individuals call to ask questions about a product or a service they already have and to obtain additional information. Most of these are inbound call centres, and not outbound call centres trying to make unsolicited sales.

On motion of Senator Tkachuk, debate adjourned.

(1520)

DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Losier-Cool, for the second reading of Bill S-41, An Act to amend the Department of Foreign Affairs and International Trade Act (human rights reports).

Hon. Rose-Marie Losier-Cool: Honourable senators, I am rising today to follow up on the comments made by the Honourable Senator Kinsella on September 29, regarding Bill S-41.

This bill is interesting from a parliamentarian's point of view, since the government would keep the Senate informed about the progress made by Canada in implementing United Nations human rights instruments to which Canada is a signatory. The Senate would also be informed of the UN response to such progress.

[English]

This bill further interests me as a member of the Standing Senate Committee on Human Rights as it is quite topical, the committee being in the process of looking at Canada's compliance with such international instruments. This bill would increase government accountability in this respect.

[Translation]

On September 29, Senator Kinsella reminded us of two things. First, only a few officials and human rights advocates are systematically aware of the efforts deployed by Canada under international human rights instruments to which it is a signatory, and of the marks given to our country for its efforts.

Second, it is critical that those who are most affected by these documents and rights, namely the public at large, can easily find out what Canada is doing in terms of compliance with the UN conventions, and also how the United Nations is judging Canada's efforts.

[English]

Bill S-41 would go some way toward bridging the information gap by ensuring that parliamentarians, whether in this chamber or in the other place, receive a copy of Canada's progress reports and the United Nations' responses to such reports. The bill targets only human rights instruments originating from the United Nations and to which our country is a party.

The bill, however, could target other instruments designated by regulations. We may know, honourable senators, that there is already information floating out there and that Canadians are not necessarily in the dark.

[Translation]

Our Canadian Heritage website gives any Internet user access, free of charge, to the full text of reports that Canada submits from time to time to the United Nations on its progress in implementing six of the seven instruments covered in Bill S-41: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and, finally, the Convention on the Rights of the Child.

However, the United Nations' responses to these reports do not accompany the reports. I therefore take this opportunity to encourage the Department of Canadian Heritage to post these responses on its website, for the benefit of all.

As far as the seventh instrument covered by Bill C-41 is concerned, namely the Universal Declaration of Human Rights of 1948, it would not appear that Canada is required to report periodically on its implementation. There are probably two reasons for that.

First, the Declaration is not binding, transferring instead this mandate onto the two international covenants: the one on civil and political rights and the one on economic, social and political rights, which followed the Declaration in 1966 and on which Canada is already reporting. And second, our country already has its own Charter of Rights and Freedoms, which was enacted in 1982.

If indeed our country is not required to report to the United Nations on the Universal Declaration of Human Rights, then Bill S-41 should be amended to remove the Declaration from the list. This is a point that can be clarified by the senatorial committee in its consideration of the bill.

[English]

While posting information on the Internet is an effective way to reach the technically endowed and savvy, it is of little help if one does not know the information is posted or if one is unsure exactly where to find the information. That is where Bill S-41 could help by ensuring that Canadians, through their parliamentarians, are aware of their country's compliance with selected international human rights instruments.

Bill S-41 could, therefore, seem to echo some of the wisdom contained in the December 2001 report of the Standing Senate Committee on Human Rights entitled *Promises to Keep: Implementing Canada's Human Rights Obligations*. In this report, the committee suggested that Parliament has a:

...proper role in a democracy. That role cannot remain limited to passing whatever implementing legislation the executive deems necessary to fulfil a treaty commitment. Parliament should be involved in scrutinizing such treaty commitments to begin with and in helping to determine what may be required by way of implementation.

[Translation]

The bill would therefore enable parliamentarians to be better informed and thus to better inform their constituents. There is, however, nothing to stop them from doing more than merely reading a document.

Some may wonder whether this bill ought not to go a bit further and recommend that Canada's reports to the UN, and the UN responses to them, be not merely tabled in both chambers, but also referred to the appropriate committee. Here again, the Senate committee that will examine the bill could decide on this.

[English]

During Question Period this past June 30, the Leader of the Government in the Senate indicated that the government looks favourably upon this bill, with amendments. My informal understanding is that these amendments could be minor and seek only to clarify some international instruments targeted by the bill and to subject a time frame for tabling documents.

[Translation]

Once again, decisions on the amendments proposed by the government can be made in the Senate committee examining the bill.

If the principle of Bill S-41 is accepted, it seems to me that it is not necessary to delay the committee's work any further. I therefore move that the bill be referred to the appropriate committee.

On motion of Senator Rompkey, debate adjourned.

• (1530)

[English]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

MOTION TO AUTHORIZE COMMITTEE TO STUDY STATE OF PREPAREDNESS FOR PANDEMICS— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator LeBreton:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the state of preparedness for a pandemic on the part of the Canadian Government and in particular on measures that Canadians and Canadian businesses and organizations can take to prepare for a pandemic; and

That the Committee submit its report no later than December 8, 2005.—(Honourable Senator Rompkey, P.C.)

Hon. Marilyn Trenholme Counsell: Honourable senators, I should like to offer a few comments on Motion No. 134. I say this recognizing that the Standing Senate Committee on Social Affairs, Science and Technology has not had a chance to meet since this motion was presented, and that the chair and deputy chair of the committee are not here.

I fully recognize the seriousness of the motion presented by the Honourable Senator Stratton and seconded by the Honourable Senator LeBreton. There is no doubt that their interest and concern are in the right place. However, looking at this carefully, it would seem to be totally unrealistic that these good senators would consider it possible to submit a report no later than December 8, 2005 on such an important issue.

Looking at our calendar, there are five weeks between now and December 8. This motion cannot be considered until next week, which leaves four weeks. When one considers that this committee is in the process of serious work on the mental health study, I do not think it is reasonable to expect that this committee could submit a report no later than December 8.

Also, for the record, Canada is amongst 30 or 40 countries in the world working hard on this issue right now. Here in Ottawa, there was a two-day meeting, October 24 and October 25. Another follow-up meeting is scheduled in Geneva, Switzerland, November 7 to 9, on this subject, with 30 or 40 countries involved. To me, this represents an unprecedented sharing of information, and of working together, developing plans of action, hoping to develop a vaccine and other anti-viral products, and certainly putting to best use our new Public Health Agency of Canada.

While the intent of this motion is absolutely sound and noteworthy, I do not think, from my point of view, and this is a personal opinion because the committee has not met, that this is at all possible or practicable. This is not in any way to

underestimate the importance of Parliament, the Senate or the other place discussing this at every possible opportunity, but it seems to me that the motion itself is an impossible one to deal with in the time frame that has been suggested.

Hon. Terry Stratton (Deputy Leader of the Opposition): Would the honourable senator entertain a question or two?

Senator Trenholme Counsell: Yes.

Senator Stratton: Are you aware that there is a general, unwritten rule of this chamber that we do not mention people who are absent from this chamber?

Senator Trenholme Counsell: I am sorry. I will take note of that, and thank you.

Senator Stratton: Are you aware that the Standing Senate Committee on Social Affairs, Science and Technology did a quick study on the SARS problem when it broke out? We are asking simply for the same thing at this time.

On motion of Senator Rompkey, debate adjourned.

STATE OF POST-SECONDARY EDUCATION

INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Callbeck calling the attention of the Senate to the state of post-secondary education in Canada.—(Honourable Senator Callbeck)

Hon. Catherine S. Callbeck: Honourable senators —

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Honourable senators, I must advise that if Senator Callbeck speaks now, her speech will have the effect of closing debate on this inquiry.

Hon. Marcel Prud'homme: Honourable senators, I would be more than honoured to ask the honourable senator if she prefers to terminate the debate; otherwise, perhaps we would like to prolong it. I am in her hands. If she wants to speak, she would close the debate.

Senator Callbeck: Honourable senators, that is up to honourable senators. I initiated this inquiry back in November. Several senators have spoken, and I thought no one else wanted to speak, so I planned to speak today to close it.

Honourable senators, last November I introduced an inquiry into the state of post-secondary education in Canada because I believe the future prosperity of this country is absolutely dependent upon the health of our post-secondary institutions and upon the availability of affordable and accessible post-secondary education for all Canadians.

So few issues are so intrinsically tied to our future prosperity as education. When the inquiry was introduced, I raised concerns that we could do more to ensure that Canadians are provided with the opportunity to realize fully their potential and, more significantly, to realize fully the potential of this great country through the pursuit of post-secondary education.

I thank the honourable senators who participated in this debate on the inquiry: Senator Atkins, Senator Kinsella, Senator Mercer, Senator Moore and Senator Tardif.

I also thank the many others who shared with me their ideas and suggestions on how we can increase the percentage of Canadians who receive a post-secondary education. A number of honourable senators have pointed to the need for a dedicated transfer to the provinces for education. Other suggestions included the need for an increase in grants available to students; increased funding for research; assistance for student loan repayments and increased debt reduction; the creation of national standards for education; more cooperation among governments, educational institutions and the private sector; more incentives for parents to save for their children's post-secondary education; increased funding for post-secondary institutions; and a need for a national strategy to set directions and determine priorities.

All these ideas have significant value and, I believe, need to be explored further. I also believe that all honourable senators are agreed that the future of post-secondary education is critical to the future of Canada.

Of course, it is not only within these walls that the importance of this issue is recognized. Canadians are well aware that educational achievement means better jobs, higher incomes and improved standards of living. Statistics Canada has reported that the vast majority of Canadians understand and recognize the opportunities afforded by post-secondary education. More than 80 per cent of Canadian parents would like their children to pursue a post-secondary education.

• (1540)

The most recent data from Statistics Canada shows that graduates with a university degree earn on average nearly twice as much as a high school graduate. There is a very real link between education and income.

More and more, it is not only increased income but actual job availability that is becoming dependent on having a post-secondary education. There are studies that point to a future where three out of four jobs in an increasingly knowledge-based economy will require a post-secondary education. To quote former Ontario premier Bob Rae:

Around the world, the transformation of the modern economy is turning higher education into a critical issue. Where higher education was once the prerogative of an elite, it is now the clear need of the majority of the population.

Canadians themselves understand this. They understand the role of education in the new economy. They understand that their future and the future of Canada depends greatly on having an educated workforce that is ready and able to compete in today's worldwide marketplace.

According to the Association of Universities and Colleges of Canada, the demand for university education is increasing at an unprecedented rate. Over the last three years, full-time enrolment has increased by more than 130,000 students, bringing the total enrolment to about 800,000 students.

These numbers need to increase even further. In 1994, the Canadian economy employed more than 2.3 million university graduates. By 2004, 10 years later, this number had increased by 45 per cent. The Association of Universities and Colleges of Canada estimate that an additional 1.5 million graduates will be needed by 2014. That is only nine years from now, and that number is over and above the number of graduates needed to replace the growing number of degree holders who will be retiring over the next decade.

Honourable senators, there is broad recognition and understanding of the vital role that education plays in the health of our economy, the well-being of our society and our future as a country. Other OECD nations are increasing their post-secondary education participation rates faster than we are in this country, so we continue to fall behind.

Right now, less than 40 per cent of our population has completed some form of post-secondary education. That number is inadequate to meet the needs of the future. It is inadequate if we are to ensure continued prosperity for this country. That number must change.

One may ask why Canadians are not attending post-secondary institutions if they understand how vital it is for their future. Two years ago, the Canadian Alliance of Student Associations made a statement on improving access to post-secondary education. The paper identified two overwhelming barriers to higher education. One was the lack of funding for post-secondary institutions, and the other was the lack of adequate financial aid to students.

University tuition has risen by 160 per cent in the last decade. Post-secondary institutions are struggling with higher operating and capital costs. The average student debt upon graduation is over \$25,000. If current trends continue, it is estimated that by the year 2020, a four-year undergraduate degree will cost in the area of \$132,000.

In this country today, access to post-secondary educational opportunities is clearly limited because of a person's financial status. There are scholarships and bursaries available to assist students, but only a small number are fortunate enough to receive the large ones to cover most of their expenses.

Unless a decisive course of action is taken, access to postsecondary education will more and more become a privilege afforded only the well-to-do. This is untenable. It is untenable for a citizen of this great country not to be able to realize his or her potential because they cannot afford the required education. It is untenable because it will compromise the future economic prosperity of the entire nation. We must improve the level of assistance to students wishing to pursue post-secondary education. In addition, students must be able to expect that the education they receive will be of the highest quality and offered at institutions that boast the best teaching, research and facilities in order to prepare graduates for the world beyond.

In a country whose future depends on an educated and skilled workforce, we need to do much better than provide post-secondary education for less than half of the population. To quote Prime Minister Martin:

Our natural resources are finite, but talent and its potential are not. That is why we need to focus so intently on our most important renewable resources — the skills of our population, innovation, and investment....

The prerequisite for entry into the global economy of tomorrow is education — quality education that begins early in life and prepares people to thrive in a competitive world.

The Government of Canada has already taken a number of steps forward. The budget, Bill C-48, passed in this chamber in July 2005, provides \$1.5 billion to enhance access to post-secondary education and support skills training for Canadian young people.

In addition, the Canada Education Savings Act received Royal Assent last December. This legislation established the Canada Learning Bond and made substantial enhancements to the Canada Education Saving Grant, a program for low and middle income families.

Changes have also been made as of August 1 to the Canada Student Loans Program in recognition of the ever-increasing costs of post-secondary education. These changes lower the expected parental contribution from moderate and middle income families to dependent children. As a result, approximately 20,000 more students are now eligible for assistance under the Canada Student Loans Program.

I commend and congratulate the federal government for these and other initiatives aimed at improving the quality of post-secondary education and increasing access to it.

Canadians recognize the value and importance of postsecondary education for themselves and their families. They recognize that post-secondary graduates earn higher salaries, have the highest levels of labour force participation and the lowest levels of unemployment. Governments also recognize that our national standard of living and our competitive position in the world depends on an educated, skilled and productive workforce.

The question before us today is not whether we can afford to further invest in post-secondary education; it is whether we can afford not to.

Honourable senators, we recognize that at the heart of this issue lies a fundamental truth: Canada will be diminished if we do not look to the future and begin to educate more of our population at the post-secondary level. Financial barriers to continued education have no place in this country.

Honourable senators, this inquiry on post-secondary education has prompted significant discussion. We need to make this issue a high priority. We must involve the federal and provincial governments, educational institutions, the private sector and the public in these discussions. Accordingly, I believe that this issue of accessibility and equality must be examined in greater depth. That is why I will soon introduce a motion in this chamber to refer this matter to a Senate committee.

Working together, we must more fully identify the challenges and barriers facing Canadian young people as they enter the knowledge economy. We must also look at ways to assist our post-secondary institutions as they seek to provide a quality learning environment and experience. We must offer solutions to ensure that anyone who wishes to pursue a post-secondary education may have the opportunity to do so. The future of Canada's youth and of our nation as a whole depends on it.

The Hon. the Acting Speaker: Honourable Senator Banks, before Senator Callbeck took the floor, senators were advised that her speech would have the effect of closing the debate. This inquiry is now considered fully debated.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, November 1, 2005, at 2 p.m.

The Hon. the Acting Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, November 1, 2005, at 2 p.m.

PROGRESS OF LEGISLATION THE SENATE OF CANADA

(indicates the status of a bill by showing the date on which each stage has been completed)

(1st Session, 38th Parliament)

Thursday, October 27, 2005

(*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Thouses of Parliament have been notified of the declaration.)

GOVERNMENT BILLS

	Chap.	25/04	8/05	31/05							
	5	25									
	R.A.	04/12/15	05/03/23*	05/06/29*							
	3rd	04/12/02	04/12/08	05/04/20	05/06/21	5	05/06/20	05/07/18	05/07/18		05/10/20
	Amend	observations	0	0	0		0	0	6		0
	Report	04/11/25	04/11/25	05/03/07	05/06/16		05/06/16	05/06/29	05/06/23		05/09/29
(SENATE)	Committee	Legal and Constitutional Affairs	Banking, Trade and Commerce	Social Affairs, Science and Technology	Transport and Communications		Energy, the Environment and Natural Resources	Foreign Affairs	Agriculture and Forestry	Legal and Constitutional Affairs	Social Affairs, Science and Technology
	2nd	04/10/26	04/11/17	05/02/02	05/06/07	Bill withdrawn pursuant to Speaker's Ruling 05/06/14	60/90/50	05/06/15	05/06/15	05/06/15	02/06/30
	1st	04/10/19	04/10/28	04/11/02	05/05/12	05/05/16	05/05/19	05/05/19	05/05/31	05/06/07	60/90/50
	Title	A second Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	An Act to implement an agreement, conventions and protocols concluded between Canada and Gabon, Ireland, Armenia, Oman and Azerbaijan for the avoidance of double taxation and the prevention of fiscal evasion	An Act to amend the Statistics Act	An Act to authorize the construction and maintenance of a bridge over the St. Lawrence River and a bridge over the Beauharnois Canal for the purpose of completing Highway 30	An Act to amend the Aeronautics Act and to make consequential amendments to other Acts	An Act to amend the Export and Import of Rough Diamonds Act	An Act to amend the Criminal Code and the Cultural Property Export and Import Act	An Act respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign countries	An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act	An Act to amend the Hazardous Materials Information Review Act
	No.	S-10	S-17	S-18	S-31	S-33	S-36	S-37	S-38	8-39	S-40

GOVERNMENT BILLS (HOUSE OF COMMONS)

Chap.	32/05	29/05	3/05	26/04					22/05			* 25/05
R.A.	05/07/20*	05/06/23*	05/02/24*	04/12/15	05/03/23*	05/02/24*	05/04/21*	05/06/23*	05/05/19*		05/05/13*	05/05/19*
3rd	05/07/19	05/06/22	05/02/22	04/12/13	05/03/21	05/02/16	05/04/19	05/06/21	05/05/16		05/04/14	05/05/19
Amend	0 observations	0 observations	0	0 observations	0	0	0	0	observations		2	0
Report	05/07/18	60/90/50	05/02/15	04/12/09	05/02/22	05/02/10	05/04/14	05/06/16	05/05/12		05/04/12	05/05/18
Committee	Legal and Constitutional Affairs	Transport and Communications	Transport and Communications	Banking, Trade and Commerce	National Security and Defence	Energy, the Environment and Natural Resources	National Finance	National Finance	Legal and Constitutional Affairs	National Finance	Social Affairs, Science and Technology	Legal and Constitutional Affairs
buc	05/06/20	05/04/14	04/12/09	04/12/08	04/12/07	04/12/09	05/03/21	05/06/08	05/02/22	05/10/27	02/03/09	05/05/16
4 St	05/06/14	05/03/21	04/11/16	04/12/07	04/11/18	04/11/30	05/03/07	05/06/02	05/02/08	05/10/18	05/02/10	05/05/12
- 17 Calls	An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act	An Act to amend the Canada Shipping Act, the Canada Shipping Act, 2001, the Canada National Marine Conservation Areas Act and the Oceans Act	An Act to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment	An Act to provide financial assistance for post-secondary education savings	An Act to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts	An Act to amend the Department of Canadian Heritage Act and the Parks Canada Agency Act and to make related amendments to other Acts	An Act to amend the Financial Administration Act, the Canada School of Public Service Act and the Official Januares Act	An Act to establish the Economic Development Agency of Canada for the Regions of Quebec	An Act to amend the Criminal Code (mental disorder) and to make consequential amendments to other Acts	An Act to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings.	An Act to prevent the introduction and spread of communicable diseases	An Act to amend the Criminal Code, the DNA Identification Act and the National
	No.	C-3	0.4	C-5	9-0	C-7	C-8	6-O	C-10	C-11	C-12	C-13

Chap.	1/05	23/05	14/05	9/05	35/05	34/05	7/05				18/05	16/05	19/05	27/04
R.A.	05/02/15*	05/05/19*	05/03/23*	05/03/23*	05/07/20*	05/07/20*	05/03/10*				.50/50/50	05/04/21*	05/05/13*	04/12/15
3rd	05/02/10	05/05/18	05/03/23	05/03/21	05/07/20	05/07/20	60/60/50				05/04/14	05/04/21	05/05/10	04/12/15
Amend	0	0 observations	0 observations	0	0	0	0				2	0	0	
Report	05/02/10	05/05/17	05/03/22	05/03/10	05/07/18	05/07/18	05/03/08				05/04/12	05/04/21	05/05/03	1
Committee	Aboriginal Peoples	Energy, the Environment and Natural Resources	Transport and Communications	Aboriginal Peoples	Social Affairs, Science and Technology	Social Affairs, Science and Technology	National Finance		National Security and Defence		Banking, Trade and Commerce	National Finance	National Finance	
2 nd	04/12/13	05/02/02	05/02/23	05/02/16	05/06/21	05/06/14	05/02/22		05/06/29		05/03/07	05/04/14	05/04/20	04/12/14
1st	04/12/07	04/12/14	04/12/13	04/12/13	60/90/50	05/06/02	05/02/16	05/10/18	05/06/14	05/10/19	05/02/15	05/04/13	05/03/07	04/12/13
Title	An Act to give effect to a land claims and self-government agreement among the Tlicho, the Government of the Northwest Territories and the Government of Canada, to make related amendments to the Mackenzie Valley Resource Management Act and to make consequential amendments to other Acts	An Act to amend the Migratory Birds Convention Act, 1994 and the Canadian Environmental Protection Act, 1999	An Act to amend the Telefilm Canada Act and another Act	An Act to provide for real property taxation powers of first nations, to create a First Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority and First Nations Statistical Institute and to make consequential amendments to other Acts	An Act to establish the Department of Social Development and to amend and repeal certain related Acts	An Act to establish the Department of Human Resources and Skills Development and to amend and repeal certain related Acts	An Act to amend the Federal-Provincial Fiscal Arrangements Act and to make consequential amendments to other Acts (fiscal equalization payments to the provinces and funding to the territories)	An Act governing the operation of remote sensing space systems	An Act to establish the Canada Border Services Agency	An Act to amend the Food and Drugs Act	An Act to amend the Patent Act	An Act to amend the Parliament of Canada Act and the Salaries Act and to make consequential amendments to other Acts	A second Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 2, 2004-2005)
No.	C-14	C-15	C-18	C-20	C-22	C-23	C-24	C-25	C-26	C-28	C-29	C-30	C-33	C-34

An Act for granting to Her Majesty certain o4/12/13 04/12/14 Sums of money for the public service of data and for the financial year ending March 31, 2006 (Appropriation Act No. 3, Act to change the boundaries of the o4/12/13 05/02/01 Legal and Constitutional Act to amend the Telecommunications o5/10/25 Act Act to change the boundaries of the 04/12/13 05/02/01 Legal and Constitutional data capacity for marriage for civil purposes An Act to amend the Federal-Provincial 05/02/22 05/03/08 Social Affairs An Act to amend the Federal-Provincial 05/02/22 05/03/08 Social Affairs An Act to amend the Federal-Provincial 05/02/22 05/03/08 Social Affairs An Act to amend the Federal-Provincial 05/02/22 05/03/08 Social Affairs An Act to amend the Federal-Provincial 05/02/22 05/03/08 Social Affairs An Act to granting to the Majesty certain 05/03/22 05/03/23 ———————————————————————————————————		2		
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05/06/15	05/06/21 0		05/06/23*	27/05
administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006)	1	05/06/22	05/06/23*	28/05

COMMONS PUBLIC BILLS

02	Titlo	184	buc	Committoo	Popular	Amond	2rd	V 0	Chan
NO.	9311	-	7	Committee	Report	Amend	3	K.A.	Chap.
C-259	An Act to amend the Excise Tax Act (elimination of excise tax on jewellery)	05/06/16		,					
C-302	An Act to change the name of the electoral district of Kitchener—Wilmot—Wellesley—Woolwich	04/12/02	04/12/07	Legal and Constitutional Affairs	05/02/17	0 observations	05/02/22	05/02/24*	4/05
C-304	An Act to change the name of the electoral district of Battle River	04/12/02	04/12/07	Legal and Constitutional Affairs	05/02/17	0 observations	05/02/22	05/02/24*	2/02
			SEN	SENATE PUBLIC BILLS					
No.	Title	1st	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to amend the Citizenship Act (Sen. Kinsella)	04/10/06	04/10/20	Social Affairs, Science and Technology	04/10/28	0	04/11/02	*50/50/50	17/05
S-3	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/10/06	04/10/07	Official Languages	04/10/21	0	04/10/26		
8-S	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/10/06	Dropped from Order Paper pursuant to Rule 27(3) 05/02/22						
လို	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	04/10/07	04/10/26	Transport and Communications (withdrawn) 04/10/28 Legal and Constitutional Affairs					
9-8	An Act to amend the Canada Transportation Act (running rights for carriage of grain) (Sen. Banks)	04/10/07							
S-7	An Act to amend the Supreme Court Act (references by Governor in Council) (Sen. Cools)	04/10/07	Dropped from Order Paper pursuant to Rule 27(3) 05/02/22						
8	An Act to amend the Judges Act (Sen. Cools)	04/10/07	Dropped from Order Paper pursuant to Rule 27(3) 05/06/16						
ග	An Act to amend the Copyright Act (Sen. Day)	04/10/07	04/10/20	Social Affairs, Science and Technology					
S-11	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/10/19	04/10/26	Legal and Constitutional Affairs	05/04/12	2 observations	05/05/17		

	-17:14	1st	buc	Committee	Report	Amend	3rd	R.A.	Chap.
	litte	-	4		00130130	c			
S-12	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/10/19	05/06/01	Energy, the Environment and Natural Resources	67/90/50	0			
S-13	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/10/19	04/11/17	Legal and Constitutional Affairs				1	
	An Act to protect heritage lighthouses (Sen. Forrestall)	04/10/20	04/11/02	Social Affairs, Science and Technology	05/03/21	0	05/03/23		
	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/10/20		Subject matter 05/02/10 Transport and Communications					
S-16	An Act providing for the Crown's recognition of self-governing First Nations of Canada (Sen. St. Germain, P.C.)	04/10/27		Subject matter 05/02/22 Aboriginal Peoples					
S-19	An Act to amend the Criminal Code (criminal interest rate) (Sen. Plamondon)	04/11/04	04/12/07	Banking, Trade and Commerce	05/06/23	-	05/06/28		
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/11/30		Subject matter 05/02/02 Legal and Constitutional Affairs					
	An Act to amend the criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	04/12/02	05/03/10	Legal and Constitutional Affairs					
S-22	An Act to amend the Canada Elections Act (mandatory voting) (Sen. Harb)	04/12/09	Dropped from Order Paper pursuant to Rule 27(3) 05/10/18						
S-23	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	05/02/01		Subject matter 05/07/18 Legal and Constitutional Affairs					
S-24	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	05/02/03	05/03/10	Legal and Constitutional Affairs					
S-26	An Act to provide for a national cancer strategy (Sen. Forrestall)	05/02/16	05/06/01	Social Affairs, Science and Technology					
S-28	An Act to amend the Bankruptcy and Insolvency Act (student loan) (Sen. Moore)	05/03/23	05/06/01	Banking, Trade and Commerce					
S-29	An Act respecting a National Blood Donor Week (Sen. Mercer)	05/05/05	05/06/01	Social Affairs, Science and Technology					
S-30	An Act to amend the Bankruptcy and Insolvency Act (RRSP and RESP) (Sen. Biron)	05/05/10							
S-32	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	05/05/12					1	1	t t

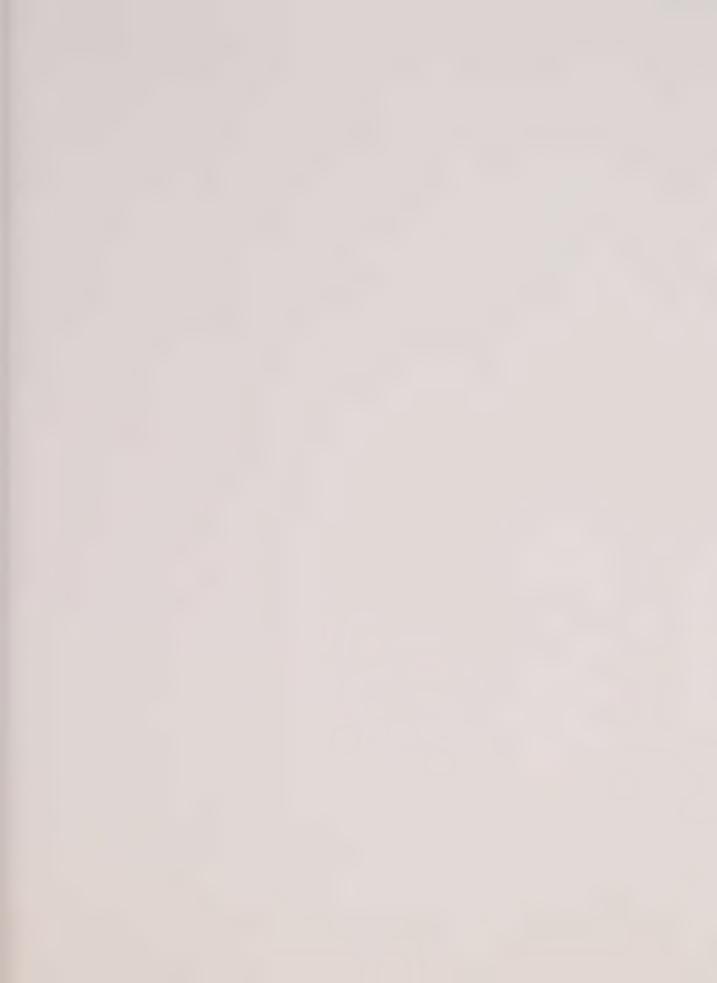
No.	Title	181	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-34	An Act to amend the Department of Justice Act and the Supreme Court Act to remove certain doubts with respect to the constitutional role of the Attorney General of Canada and to clarify the constitutional relationship between the Attorney General of Canada and Parliament (Sen. Cools)	05/05/16							
S-35	An Act to amend the State Immunity Act and the Criminal Code (terrorist activity) (Sen. Tkachuk)	05/05/18							
S-41	An Act to amend the Department of Foreign Affairs and International Trade Act (human rights reports) (Sen. Kinsella)	05/06/21							
S-42	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	05/07/20							
S-43	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	05/09/28							
S-44	An Act to amend the Public Service Employment Act (Sen. Ringuette)	05/09/28							
S-45	An Act to amend the Canadian Human Rights Act (Sen. Kinsella)	05/10/25							

			Ь	PRIVATE BILLS					
No.	Title	1st	2nd	Committee	Report	Report Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of The General Synod of the Anglican Church of Canada (Sen. Rompkey, P.C.)	05/02/10 05/03/23	05/03/23	Banking, Trade and Commerce	90/90/90	0 observations		05/05/10 05/05/19*	1
S-27	An Act respecting Scouts Canada (Sen. Di Nino)	05/02/17	05/02/17 05/04/19	Legal and Constitutional Affairs					

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1st SESSION

38th PARLIAMENT

VOLUME 142

NUMBER 94

OFFICIAL REPORT (HANSARD)

Tuesday, November 1, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.

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THE SENATE

Tuesday, November 1, 2005

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

2005 CANADA SUMMER GAMES

CONGRATULATIONS TO TEAM NOVA SCOTIA

Hon. Terry M. Mercer: Honourable senators, this past summer, the Canada Games — our very own athlete-centred, national sporting event — were held in Regina, Saskatchewan.

What began as an idea in 1924, the legacy of the Canada Games continues to thrill audiences with its spirited competition and showcases real pride in one's country. In fact, honourable senators, it is worthy to note that the first Canada Summer Games were held in Halifax, Nova Scotia, in 1969.

The games are the opportunity for all Canadians to share in their communities, volunteerism, culture and the development of future leaders.

Honourable senators, Team Nova Scotia athletes won 46 medals while setting new records at these games. Our Nova Scotia team finished the two weeks of competition in sixth place, with medals being awarded in athletics, women's basketball, sailing, rowing, canoe/kayak, rugby and swimming.

Team Nova Scotia athletes were supported by 45 coaches and 23 managers, two boatmen and 18 mission staff, bringing the team's total to over 400 Nova Scotians.

Honourable senators, the host city society chose "No Limits/Sans Limites" as the theme for the 2005 Canada Summer Games — a very fitting theme.

I am sure, honourable senators, that you join me in offering my sincere congratulations to all Team Nova Scotia athletes, coaches, staff and volunteers, as well as the thousands of other athletes from across Canada, their coaches and team volunteers, parents and friends, who all worked together to make these games a success and a truly Canadian event.

DOWN SYNDROME AWARENESS WEEK

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, in a strange twist of fate, each year one in 800 babies born in Canada has a triplication instead of a pairing of the twenty-first chromosome. These babies have a genetic difference called Trisomy 21, or Down syndrome.

These babies may have different genes, but they have the same need for love and food, just like every other baby. As they grow, they need proper schooling, activity and encouragement, just like every other child; and when they reach adulthood, they share the same hopes as every other adult — a job, a marriage, a home and all the wonderful things that life has to offer.

However, too often as babies, as children and as adults, people who have Down syndrome are denied appropriate medical treatment that would improve their quality of life. They are denied educational supports that would allow them to attend neighbourhood schools with their friends. They are denied post-secondary training that would enable them to develop careers and a decent income. Too often, they are not valued as people with something useful to contribute to society.

Down Syndrome Awareness Week gives us the chance to focus on finding a cure, not for Down syndrome, but for intolerance directed at people who have Down syndrome or any other difference.

I urge honourable senators to join with me and celebrate Down Syndrome Awareness Week, November 1 to 7, not because Down syndrome is a difference to be mourned, but because it is a difference to be appreciated.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before I go to the next senator on my list, I wish to draw to your attention the presence in our gallery of His Excellency Paavo Lipponen, Speaker of the Parliament of the Republic of Finland.

Mr. Lipponen is accompanied by the following parliamentary colleagues: Mati Väistö, Finnish Centre Party; Arto Bryggare, Social Democratic Parliamentary Group; Olli Nepponen, National Coalition Party; Kari Uotila, Left Alliance; Rosa Merlläinen, Green Parliamentary Group; Pehr Löv, Swedish Parliamentary Group; Seppo Kalervo Tiitinen, Secretary-General of the Parliament of Finland; as well as Finland's ambassador to Canada, Pasi Patokallio.

Hon. Senators: Hear, hear!

PARLIAMENTARY SEMINAR ON AFRICA

Hon. Joan Fraser: Honourable senators, last month I had the privilege of attending two meetings of parliamentarians in Europe. The first was the fall assembly of the Inter-Parliamentary Union, on which a full report will be presented to the Senate in due course. The second was a parliamentary seminar on Africa held in London, with the theme "Partnership Beyond 2005: The role of Parliamentarians in implementing NEPAD Commitments" — NEPAD being the New Partnership for Africa's Development. The seminar was sponsored by European Parliamentarians for Africa, the British Council, the Commonwealth Parliamentary Association, U.K. branch, and the Inter-Parliamentary Union British group. The meeting brought together parliamentarians from almost every African country, from many European countries and some from Canada.

I was there on behalf of the IPU to speak about gender issues, which, as you know, I consider to be an inherent part of politics — and gender was indeed a cross-cutting theme at this meeting.

• (1410)

Honourable senators, it was an inspiring and intense two and a half days of listening to parliamentarians from all over Africa, who have the most immense issues with which to deal, vowing their commitment to good governance and to taking responsibility for the terrible problems facing their citizens.

The other Canadian parliamentarian present was Mr. John Williams, Chair of the Public Accounts Committee in the other place. He was one of two speakers at a workshop that I attended on good governance, accountability and corruption. The other speaker at that workshop provided an extraordinary rundown of African legislation in this area. It was fascinating. We heard about AIDS, the environment, trade difficulties, regional groupings and tribal difficulties.

As I have said, honourable senators, it was an inspiring two and a half days and it will influence my work here for a long time to come.

ABORIGINAL EDUCATION

Hon. Gerry St. Germain: Honourable senators, I rise to speak on an important topic to which I have previously spoken in this chamber, that is, the state of Aboriginal education in this country.

Young Aboriginals make up the fastest-growing population group in Canada, and it is imperative that they receive the best possible education. All too often, however, this has not been the case. I am sure that honourable senators are familiar with the statistics on the poor state of Aboriginal education. Several reports from the Auditor General in recent years have illustrated numerous problems related to the delivery of education by the Department of Indian Affairs and Northern Development. The Auditor General has also told us that it will take 28 years to close the gap between high school graduation rates of First Nations people living on reserves and students in the general population.

A report last year by the Millennium Scholarship Foundation stated that although Canadians are attending university and college in higher numbers than in the past, Aboriginals are still greatly under-represented in the post-secondary system.

We must do more to ensure that all Aboriginal students who wish to enter university or college have the chance to do so. No student in our country should be denied the opportunity to attain higher education because of financial or cultural barriers.

In addition to greater access to post-secondary education, it is my firm belief that entrance to skills training programs should be improved for Aboriginal students. While we need to encourage Aboriginal students to enrol in these programs, we must also ensure that they have the resources and the support necessary to complete their training. The training programs should be relevant to the lives of the students and to the labour market. In addition, we need to promote partnerships with business that will help Aboriginals further their skills training through apprenticeships.

I am proud to belong to a political party that has placed great importance on increasing the number of skilled workers in Canada. The Conservative Party plan will provide apprentices with a grant and an increased tax credit for their tools and will provide employers with a tax credit for the creation of more apprenticeship positions. These proposals could certainly help young Aboriginals who possess the necessary talent but have limited opportunity to upgrade their skills.

When young Aboriginal men and women have the opportunity to use their talents and intellect at their highest ability, our entire country will benefit greatly. I urge the federal government to work with the provinces and Canada's Aboriginal peoples to create programs that promote and strengthen skills development.

NATIONAL DEFENCE

GAGETOWN— TESTING OF AGENT ORANGE AND AGENT PURPLE

Hon. Norman K. Atkins: Honourable senators, recently the federal government has become more actively concerned with the issues and the impact of Agent Orange and other carcinogenic chemicals used at CFB Gagetown in the 1950s and 1960s. Some action has subsequently been taken to review scientific findings and compensate affected individuals.

Camp Gagetown is in a part of New Brunswick with which I am very familiar. I spend time there each year. I am disheartened by the known extent of the problem and its impact. My concern is that a closer examination may reveal more complex problems than we have anticipated.

I am aware of a man who was a member of the Black Watch at CFB Gagetown at the time of the chemical spraying and who has since died of cancer. Many of the soldiers who served with him in the Black Watch have also died of cancer. In fact, there is an area along the river that has been dubbed "Widows' Row," for obvious reasons.

Dioxins are persistent in the environment. They bio-accumulate in organisms that consume them and become concentrated as they go up the food chain. This means that health concerns are real when dioxins exist at a significant level.

It is heartening that the government is using the most comprehensive findings available as their scientific reference. It would also be useful to have further research conducted by an arm's-length technical review committee chaired by an independent lead investigator.

With recent scientific advances, there is an opportunity for renewed studies of the current levels of this type of carcinogen. More testing must be done to determine the extent of contamination that may linger today and in the future. Mortality studies should be conducted to determine whether elevated numbers of deaths occurred in the Camp Gagetown area and whether these deaths can be linked to dioxins.

Detailed information from these studies, as well as information about those companies that manufactured the chemicals used, should be released publicly. This may enable researchers to draw firm conclusions about who was and still is at risk from contamination.

Currently, affected parties are categorized into different groups with different eligibility standards, medical entitlements and compensation packages. In fairness, all affected people should be treated equitably in the system and compensation availability should be as streamlined as possible, allowing claimants to receive benefits and compensation in a timely way.

I hope the federal government will take additional action for the good of all those who have been affected and those who may be affected in the future. Federal MP Greg Thompson and local MLA Jody Carr should be commended for their work to ensure the government's diligence and fairness with those struggling with this contamination.

ROUTINE PROCEEDINGS

COMMISSION OF INQUIRY INTO THE SPONSORSHIP PROGRAM AND ADVERTISING ACTIVITIES

REPORT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, a report entitled Commission of Inquiry into the Sponsorship Program and Advertising Activities.

IMMIGRATION

2005 ANNUAL REPORT TO PARLIAMENT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present, in both official languages, the Annual Report to Parliament on Immigration for the year 2005.

[Translation]

DEPARTMENTAL AND AGENCY PERFORMANCES

2004-05 REPORTS TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the departmental performance reports for 90 departments and agencies for the year ending March 31, 2005.

[English]

CANADA BORDER SERVICES AGENCY BILL

REPORT OF COMMITTEE

Hon. Colin Kenny, Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Tuesday, November 1, 2005

The Standing Senate Committee on National Security and Defence has the honour to present its

FIFTEENTH REPORT

Your Committee, to which was referred Bill C-26, An Act to Establish the Canada Border Services Agency, has, in accordance to the Order of Reference of October 20, 2004, examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

COLIN KENNY Chair

OBSERVATIONS to the Fifteenth Report of the Standing Senate Committee on National Security and Defence

The Committee adopted Bill C-26, An Act to establish the Canada Border Services Agency, without amendment. However, during its consideration of the Bill, Committee members expressed concern with regard to clauses 15.1 (1) and 15.1 (2).

The Committee questioned the effect of Clause 15.1 (2) on Clause 15.1 (1) and on the Minister's stated goal of improving transparency and openness within her department and its portfolio agencies.

The Committee supports the obligation to report to Parliament annually on the operations and performance of the Canada Border Services Agency as is imposed by Clause 15.1 (1). The Committee's concern centres on whether the type of annual report that may be required by Treasury Board, which Clause 15.1(2) states may satisfy the obligation imposed by Clause 15.1(1), is an adequate vehicle for such reporting.

Specifically, the Committee questions whether a Treasury Board-mandated report would include sufficient data on issues such as critical incidents faced by Border Services Officers, indeterminate vs. temporary staffing levels by Port of Entry, and traffic volume by Port of Entry. The Committee recommended that the Canada Border Services Agency increase the data being reported to Parliament annually in the Committee's June 2005 report, *Borderline Insecure*.

The Minister stated that she was open to considering an additional report to Parliament, in addition to that which is required by Treasury Board. The Committee expects the Minister to consider this option seriously.

Senator Michael Forrestall questioned Minister of Public Safety and Emergency Preparedness Canada Anne McLellan with regard to the need for greater transparency and the adequacy of current reports to Parliament. Their exchange follows:

Senator Forrestall: Minister, we are talking a lot today about transparency and openness. You may recall, during the debate in the Senate chamber, some of us expressed concern about the absence of provision for an annual report. The suggestion from the government was that the report by Treasury Board be considered the annual report of the Border Services Agency. I ask whether or not you might have had a change of heart; and, if so, in light of the need for apparent transparency —

Ms. McLellan: Are you asking if I, as minister, would submit an annual report to Parliament?

Senator Forrestall: I would submit that the agency should submit an annual report to Parliament through you.

Ms. McLellan: It is being done. Mr. Jolicoeur tells me that.

Mr. Jolicoeur: There was an amendment to our legislation to ensure that we would provide that report to Parliament. It is done through the normal Treasury Board initiative of asking each department to provide the departmental performance report.

Senator Forrestall: That is not quite good enough. Your report has been filtered through another hand before it comes to the public. In fairness to the proposition of fairness and transparency and openness, I think you should be seen to be speaking for yourselves.

Ms. McLellan: Can I take that back and think about it in the next day or so?

Senator Forrestall: I wish you would.

Ms. McLellan: I will.

Source: Senate Standing Committee on National Security and Defence, *Unrevised Evidence* (October 31, 2005).

¹ Senate Standing Committee on National Security and Defence, *Borderline Insecure* (June 2005), 35.

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Banks, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1420)

THE SENATE

NOTICE OF MOTION TO URGE GOVERNMENT TO PROVIDE FUNDING FOR FURTHER DEVELOPMENT OF PALLIATIVE AND END-OF-LIFE CARE STRATEGY

Hon. Sharon Carstairs: Honourable senators, pursuant to rule 58(1)(i), I give notice that two days hence I will move that:

Whereas the federal government has a leadership and a coordination role and a direct service delivery role for certain populations with regard to palliative and end-of-life care in Canada;

And whereas only 15 per cent of Canadians have access to integrated palliative and end-of-life care;

Be it resolved that the Senate of Canada urge the government to provide long-term, sustainable funding for the further development of a Canadian strategy on palliative and end-of-life care which is cross-departmental and cross-jurisdictional and meets the needs of Canadians.

And that a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.

TREATMENT AND THERAPY FOR AUTISM

PRESENTATION OF PETITION

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I have the honour to present the following petition on behalf of 12-year-old Joshua Bortolotti and his four-year-old sister Sophia, containing the names of 30 Canadians who are petitioning the Senate with reference to treatment and therapy for autism and, in particular, that Parliament be called upon, first, to amend the Canada Health Act and corresponding regulations to include IBI/ABA therapy for people with autism and, second, to contribute to the creation of academic chairs at a university in each of the provinces to teach IBI/ABA treatment.

CANADA-UNITED STATES RELATIONS

MAINE—PROPOSED LIQUEFIED NATURAL GAS TERMINALS—PRESENTATION OF PETITION

Hon. Michael A. Meighen: Honourable senators, I have the honour to present petitions from 110 residents of New Brunswick and elsewhere in Canada and the United States of America asking the government to refuse the right of passage to liquid natural gas tankers through Head Harbour Passage.

QUESTION PERIOD

CITIZENSHIP AND IMMIGRATION

PROPOSAL TO ADMIT NEW IMMIGRANTS— ABILITY TO PROCESS APPLICANTS

Hon. Ethel Cochrane: Honourable senators, my question is for the Leader of the Government in the Senate. Recently, Prime Minister Martin and Minister of Citizenship and Immigration Volpe, said that they plan to admit 100,000 new immigrants and refugees to Canada over the next five years. This would create a substantial increase in numbers for a system already struggling to deal with claimants in a timely manner.

The current backlog in the system is estimated at almost 768,000 cases. According to a report in the *Ottawa Citizen* today, this backlog is due to the fact that government can only process 130,000 applicants a year. At this rate, honourable senators, it will take almost six years to process the cases already in the system.

Could the leader tell me how the federal government will be able to make good on this plan when there are already hundreds of thousands of immigrants caught in the department's backlog of cases?

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Cochrane has asked an important question. The direct answer is that we need to focus on improving the system, to improve client service and to improve program availability to permit integration. We must also work on foreign credentials, to ensure that the new immigrants and citizens that we want to attract can be absorbed into the Canadian economy in an efficient and productive way.

However, as to the underlying rationale for the program, it is clear that our demography, with an aging population and a reproduction rate of 1.6, which does not replace our population, requires increased immigration in order to maintain economic growth in this country and to maintain our social assistance programs.

One target of the program will be to encourage new immigrants to settle in larger numbers in smaller centres in Canada to provide an additional economic boost to those communities.

Senator Cochrane: While I thank the Leader of the Government in the Senate for his response, I know the "why," but I do not know the "how."

On April 18, 2005, the Minister of Citizenship and Immigration announced measures to speed up the processing of sponsorship applications for parents and grandparents coming to Canada as family-class immigrants. The press release said, "With these new measures in place, it is expected that in both 2005 and 2006 the number of parents and grandparents immigrating to Canada will increase by an additional 12,000 each year."

Last summer, I was contacted by a member of my community who began the application process to bring his parents to Canada in November 2003. When I contacted the Case Processing Centre in Mississauga for information, I was told that the department had not yet looked at sponsorship applications of overseas parents and grandparents submitted in June of 2003.

Earlier this month, a representative of the department told me that it is expected that the application will not be reviewed until some time in early 2006 — around 2.5 years after the original application.

Given that I was told in August, two-thirds of the way through 2005, that sponsorship applications of overseas parents and grandparents dated June 2003 had not been looked at, will the Leader of the Government in the Senate tell me how the government will be able to meet the targets that it set just six months ago?

Senator Austin: As I said in answer to the first question of the honourable senator, which is quite similar to the second question, program effectiveness in the department must be changed. More employees should be hired and there must be better targeting of programs that absorb immigrants.

Every provincial minister has asked the federal Minister of Citizenship and Immigration to enhance the flow of immigrants. I am advised that there is a requirement for 5,000 people to fill jobs now available in Saskatchewan. Unfortunately, the way the program is administered is cumbersome and does not permit, as the honourable senator says, the efficient processing of increased immigration numbers, which is our objective.

In response to Senator Cochrane's enquiry as to how this will be accomplished, the minister has said that he is developing programs for facilitating the recognition of people in Canada who may not be here legally, and that will absorb them into the Canadian system. However, he has not yet made an announcement, and until he makes an announcement respecting the new program formats in his department, I am unable to provide the honourable senator with the details of those programs.

Senator Cochrane: Honourable senators, could the Leader of the Government tell me when this program might be developed? I am working on a particular person's file. We want this individual and his wife to stay in Canada. Therefore, it is important that the individual's parents be here, so that he can take care of them as well. These are important people who are needed in Canada.

• (1430)

Senator Austin: I cannot speak to any particular case, or indeed as to when the new rules may be available. Of course, it is highly speculative, because I do not know the circumstances of the case to which the honourable senator has referred, as to whether the new rules would be of any assistance in that matter.

However, Senator Cochrane is fully aware of her option to correspond with Minister Volpe. If the honourable senator wishes to leave me a copy of that letter, I shall make inquiries.

INDUSTRY

INVESTMENT CANADA—KINDER MORGAN TAKEOVER OF TERASEN GAS

Hon. Pat Carney: Honourable senators, my question is directed to the Leader of the Government in the Senate. Mr. Justice Gomery has expressed concern about the secrecy surrounding the Liberal government's activities. One example is the secrecy around Investment Canada's review of the takeover of Terasen Gas by Kinder Morgan of Texas.

Under the Investment Canada Act, there is provision for review of takeovers of oil and gas pipelines, in order to determine whether there is a net benefit to Canada. The provision I refer to is a Conservative amendment, so it is familiar to some of us.

We know that this \$6.9-billion deal is the subject of such a review by the Liberal government, but neither Industry Canada nor the minister's office will release any information about their negotiations. Under the act, the government can negotiate net benefits. We just cannot find out what they are. Why is the review about benefit to Canada secret? There is nothing in the act that prohibits this information being made public.

Hon. Jack Austin (Leader of the Government): Honourable senators, I heard a reference to Mr. Justice Gomery. Was the honourable senator relating her question to Terasen — Gomery and Terasen — or did I misunderstand her question?

Senator Carney: I related my question to the secrecy that veils so many Liberal government actions — and Mr. Justice Gomery has flagged this issue. I am saying that secrecy pervades the government's review of a takeover of Terasen Gas by Kinder Morgan of Texas. Six thousand British Columbians wrote to the British Columbia Utilities Commission expressing their concern about this, so the secrecy is about why we cannot learn the results of the review or what the Government of Canada is seeking from Kinder Morgan. There is nothing in the act that prohibits the net benefit negotiations being made public.

Senator Austin: Honourable senators, I wanted to make it clear to the chamber and in my own mind that the reference to Mr. Justice Gomery has nothing to do with the Terasen file. Mr. Justice Gomery has said nothing about Terasen, and I really want to make that completely clear.

In answering the question, Senator Carney is fully aware of the fact that under the legislation there needs to be demonstrated in files exceeding \$250 million of value a net benefit to Canada. The government of which the honourable senator was a member amended the legislation in question, to provide for that particular test.

In general, negotiations need to be conducted between competent federal officials and members of any particular corporation. In this particular case, the shareholders of Terasen have indicated their approval of a transfer of control of that company to an American company, so that the government is now giving consideration to the issue of net benefit.

As I said, it is a question of negotiation and the establishment through negotiation of a net benefit column. I cannot see how anyone could be asking for those negotiations to be the subject of public review while they are continuing and before they are concluded.

INVESTMENT CANADA—DUKE ENERGY TAKEOVER OF WESTCOAST ENERGY

Hon. Pat Carney: My second question, then, in view of the minister's answer, relates to the takeover of Westcoast Energy in British Columbia by Duke Energy, one of North America's largest transmission companies, in the year 2001, for U.S. \$8.5 billion.

That takeover is but one of the multi-billion dollar takeovers that are expected to take place in Canada over the next few years because of interest in our energy resources and transmission systems.

By law, that deal was subject to Investment Canada review. Therefore, can the government leader provide details of the net benefits to Canada under that review? I ask because we are unable to get this information from the minister's office.

Hon. Jack Austin (Leader of the Government): Honourable senators, four years ago that transaction was approved by the shareholders of Westcoast Energy. With respect to the question of net benefits, I shall make inquiries to ascertain what was said by the government at that particular time and will advise Senator Carney.

INVESTMENT CANADA—NOTICES OF NET BENEFIT—PUBLIC DISCLOSURE OF DECISIONS

Hon. Lowell Murray: As the government leader knows, under the provisions of the Investment Canada Act, when the government is satisfied that an investment is of net benefit to Canada, a notice must be sent to the company concerned or, alternatively, if the government fails to send such a notice the application is deemed to have been complete.

With respect to the previous case referred to by Senator Carney, as well as the present case that is now before the government, will the government leader advise as to whether, when the notices are sent, the decisions will be made public, including the analysis on which those decisions have been made?

Hon. Jack Austin (Leader of the Government): Honourable senators, I shall look into the matter, and particularly inquire into established precedents going back to the time in which this legislation was put in place by the Mulroney government.

NATIONAL DEFENCE

HMCS WINDSOR—TRANSFORMER FAILURE

Hon. J. Michael Forrestall: Honourable senators, I have a few questions for the government leader. One has to do with HMCS Windsor, the only operational submarine that we have, with respect to the fire aboard that boat. Could the minister tell us whether there is information to indicate that the damage was such as to render the vessel not operational for an extended period, or is it of sufficient minor nature that it can be easily corrected?

Hon. Jack Austin (Leader of the Government): I am advised by the Department of National Defence that a transformer failure took place this past weekend on HMCS Windsor. The crew noticed white smoke in the forward part of the engine room. There was no sign of flames. The crew discovered that the source of the smoke was a transformer within the controller box for a chilled water plant, one of three on board that provide cold water for air conditioning. There is no interruption in the operational status of HMCS Windsor as a result of this event.

Senator Forrestall: I suppose we have God to thank for that, and we do.

LOCATION OF NEW HEADQUARTERS

Hon. J. Michael Forrestall: Can the Leader of the Government in the Senate give us any information regarding the status of the now reported move of DND HQ to the east end of the city? That poor headquarters has been east, west, north and south. It now seems to be going back to the east, reportedly somewhere in the vicinity of the old RCMP proving grounds.

• (1440)

Hon. Jack Austin (Leader of the Government): When it comes to the location of DND, or at least speculation with respect to whether the headquarters is to be moved, Senator Forrestall is always ahead of me. I am advised, honourable senators, that presently there are no plans to move the headquarters of DND.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

HEALTH ISSUES FACING ABORIGINAL COMMUNITIES

Hon. Gerry St. Germain: My question is directed to the Leader of the Government in the Senate, and it relates to the Aboriginal challenges that are facing the nation as a whole. I do not think it is a Liberal problem, a Conservative problem, or an NDP problem. It is a Canadian problem, but the Liberals have the ability to do something. That is the difference.

With respect to the people of Kashechewan and the other 95 communities across the country that are facing similar water and sewer difficulties, a number of these communities have been living under a boil-water order since 2003. My colleague Senator Tkachuk asked the government leader this question last Thursday.

The Minister of Indian Affairs and Northern Development and his officials were made aware of the problems months ago. From all indications, the government, for some odd reason, did nothing.

Would the minister tell this chamber what is being done to address the health issues in these communities in the long term? I know that an emergency program with relocation has taken place. What is the long-term plan to resolve these issues?

This is not an isolated incident. It has happened before. Canadians, who are spending \$8.8 billion, I believe, on trying to deal with clean water issues related to our Aboriginal peoples, deserve answers to their questions. I believe those answers should come from the minister.

Hon. Jack Austin (Leader of the Government): Honourable senators, I answered questions with respect to water quality on the Kashechewan reserve last week. I do want to make clear again to the chamber that the problem on that particular reserve was drawn to the attention of Minister Scott early in the summer. He went there in August and had discussions with the community. The problem is related to the management of the installed water system. It was not being appropriately operated, the result of which was that some time in early October, E. coli was noticed for the first time. The system was shut down.

Within two weeks, technicians were called in. They repaired the system and brought it up to operating quality. The E. coli bacteria has been eliminated. In the meantime, other health problems were diagnosed on the Kashechewan reserve. It was decided by the Government of Ontario, in discussions with Minister Scott, to remove a number of people from the reserve in order to achieve better health care.

The water system there is now performing as it was designed to do.

However, Minister Scott has also announced, with the agreement of the Kashechewan community, that there will be an organized removal of residents of the community to a site some six or 700 metres away, a site that is not vulnerable to flood tides. The current site is susceptible to flooding when tides reverse on the river where the community is located.

With respect to the general question, in 2003, the Government of Canada announced a five-year program of \$1.6 billion to improve water conditions on Aboriginal community sites in Canada. That program is under way. A further sum to enhance that program and speed it up will be announced.

The truth of the matter is that water quality is not just a problem for Aboriginal communities in this country. Many areas in the country, which are the sole responsibility of provinces, have water quality issues and are under boil-water orders.

Some of this is due to the changing environment. Some is due to the fact that proper equipment is not in place. The investment has not been made. Some of this is due to the fact that the people operating the equipment are not fully or properly trained.

These are important issues. Senator Grafstein has brought the question of water quality to the attention of this chamber on more than one occasion. The issue is most seriously the concern of the government today.

EFFICACY OF DEPARTMENT IN RESOLVING PROBLEMS

Hon. Gerry St. Germain: Honourable senators, there is no question that I accept what Senator Austin says as it applies in the short term. However, he has not answered my question as it relates to the long term.

Honourable senators, the Department of Indian Affairs and Northern Development is responsible for the following, to name a few items: the welfare of our Aboriginal people; their economic development; their health care; their housing; their education; and water. Obviously, the department is not doing its job.

For five days last week, our Standing Senate Committee on Aboriginal Peoples held hearings across Western Canada. In the region that Senator Austin and I represent, Northern British Columbia, we were told flat out by an elder: You put us on a reserve. Then you gave me a number. Then you sent me to a residential school. Then you placed me on welfare, and you gave me inferior education. You want me to survive. You wonder what is wrong. He told us that the department was paternalistic, that it made our Aboriginal people children of the country under the auspices of the government, and that the government does not respond.

Honourable senators, it has not responded in this case. Unless we start thinking outside of the box, we will go nowhere. We will just keep repeating our mistakes of the past.

There are reports of similar water and sewer problems affecting several other Aboriginal communities. We had the Davis Inlet crisis. What will be the outcome of the relocation of people to Sudbury? We are moving people who have traditionally lived on the land to urban areas.

Canadians are asking serious questions, and they deserve answers. Why are some Canadians living in third world conditions? Our ministers travel to Darfur, Israel, Palestine and around the world preaching the gospel of human rights, and we have not respected the human rights and fulfilled the basic requirements of our own Aboriginal people. It is a disgrace. I am not blaming any particular political party. However, the minister's party is in the driver's seat at the moment, and those in the driver's seat have to do something, and do it immediately. Who will be next? The responsibility will fall to them.

Hon. Jack Austin (Leader of the Government): Honourable senators, nobody could challenge the sentiments of Senator St. Germain. All of us want to improve the lot of Aboriginal citizens. This government has done more, in my submission, to achieve that than any previous government.

I should like to bring senators up to date on the Aboriginal round table process. The Prime Minister, the first ministers of this country and the provinces and territories, along with Aboriginal leaders of the five major organizations and many regional chiefs will meet in Kelowna on November 24 and 25. It is the third stage in a round of partnership consultations between the Government of Canada and the Aboriginal leadership in this country. It has been important that in founding this process, that has been based on partnership.

(1450)

The honourable senator and I were members of the Senate Standing Committee on Aboriginal Peoples. He and I have dealt with legislation and have heard the complaints of the Aboriginal community, that they were being dispensed with and not taken into account as genuine and equal partners. That process of dispensing has changed. Now we are working in a collateral relationship with that Aboriginal community. We have on the table six major policy sectors. The Aboriginal community has identified education as their number one priority in order to rebuild their capacity for self-government. They have identified health, housing, economic development, governance capability and capacity-building.

Honourable senators, the Government of Canada, as Senator St. Germain has said, has a standing program in the Department of Indian and Northern Affairs of \$8.8 billion, which is growing in terms of its base.

In the Kelowna round table, the Government of Canada intends to enhance the program that I have just outlined by looking at expenditures exceeding \$1 billion in housing alone over the next five years and major improvements to education, which have to be carried out with the support of the provinces and territories who are the expert providers of education.

I will not make any further comment on the subject, but I urge Senator St. Germain to follow the proceedings that are now under way. If his party will designate him as its representative to the Kelowna conference, I would be glad to see him there.

Senator St. Germain: Thank you.

I have tried to remain non-political on this question because I do not think it is political. Unfortunately, Senator Austin has indicated his government has done more for natives, which I think that is a myth, but let us not go there.

Senator Tkachuk asked the Leader of the Government about leadership. Where were the leaders in this equation, in this disaster? They have a responsibility. Why did they not bring this solution forward earlier?

Has the Indian leadership been co-opted by Ottawa? I am talking about the Assembly of First Nations. Why do they not know about these problems if they are out there in their constituency? They receive tremendous assistance from us, and rightfully so, to carry out their functions in a leadership role.

I will pass along to Senator Austin what I was told by an elder in Northern British Columbia. He said: "It is strange. I can get \$1 million for welfare, thus destroying my youth and my community, yet, when I make an application for economic development assistance, \$80,000 is the most I can get." That is \$1 million for welfare and \$80,000 for economic development.

Honourable senators, hopefully the round table works. Honestly, we must start to think of dismantling what is described by Aboriginals across Western Canada and in other parts of Canada as DIAND being a nightmare. DIAND should be the basis of assistance for Aboriginals. It appears that the more things change, the more they stay the same.

I will take up the invitation of the Leader of the Government to be there on November 24 and 25. Hopefully, we will not be treated in a partisan manner and will be able to put our case forward.

Senator Austin: Honourable senators, the invitation is subject to the approval of the leadership of the Conservative Party, which must first designate Senator St. Germain as one of its representatives at the convention. If he wishes to be there, he will no doubt talk to his whip.

Senator St. Germain: I will represent the Aboriginal people.

Senator Austin: Senator St. Germain has raised several points in his comments. First, with respect to the Assembly of First Nations, Phil Fontaine and the AFN were completely involved in the response to Kashechewan and in dialogue with the local leadership of that community and were of importance in facilitating the rapid turnaround. I would ask Senator St. Germain to have confidence in the AFN's capacity to be leaders in dealing with Aboriginal issues in the community.

With respect to the rest of the honourable senator's views, I know the time for answering questions has probably expired. I do want to say, however, that I welcome a non-partisan approach to dealing with Aboriginal issues.

Senator St. Germain has asked me what the Government of Canada will do. I have to answer for the Government of Canada. If he looks at the blues, I think the rest of the answer will stand well.

[Translation]

DELAYED ANSWER TO ORAL QUESTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on October 20, 2005, by Senator Keon, regarding home care

HEALTH

2004 FIRST MINISTERS' MEETING ON THE FUTURE OF HEALTH CARE—HOME CARE DEADLINES

(Response to question raised by Hon. Wilbert J. Keon on October 20, 2005)

The 2004 Ten-Year Plan specifies which home care services will be provided in all jurisdictions by 2006, at first-dollar coverage and based on a needs assessment. We fully expect Provinces and Territories to live up to this and have these services in place by the end of 2006.

All governments recognize the value of home care as a cost-effective means of delivering services and are developing these services to prevent or follow hospitalization.

All jurisdictions have made progress in delivering home care services, with the help of federal investments in health care, and are in the process of implementing the Ten-Year Plan.

As agreed in the 10-Year Plan, the Health Council of Canada is monitoring the implementation of the home care services and will report on progress in 2006.

[English]

ORDERS OF THE DAY

FOOD AND DRUGS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Mercer, seconded by the Honourable Senator Goldstein, for the second reading of Bill C-28, to amend the Food and Drugs Act.

Hon. Wilbert J. Keon: Honourable senators, I am pleased to speak today on Bill C-28. The bill proposes amendments that would accomplish two things. First, the Minister of Health would be given the authority to issue interim marketing authorizations for foods that contain chemical residues at specified levels. Second, those foods would be exempted from regulations relating to their sale during the approval process.

Although this bill speaks to the issue of food safety, it also considers another issue of importance; that is, the crafting and application of regulations that are not supported by legislation.

I will begin my remarks with a brief overview of the current regulatory process that governs the amount of pesticide in the Canadian foods we eat. Before a pesticide is registered for use in Canada, a federal agency — specifically, the Pest Management Regulatory Agency — must determine what level of the pesticide's residue found in a food product is considered safe for human consumption. This scientifically determined amount is known as a maximum residue limit. These residue limits are determined for both domestic and imported foods. They are also established for pesticides that are not registered for use in Canada but are used in other countries.

Any food found to exceed its maximum residue limit is considered adulterated, meaning that it has been made impure through an extraneous ingredient. Under the Food and Drugs Act, adulterated food cannot be sold in Canada.

Food manufacturers who wish to change a maximum residue limit must present a request to Health Canada. The department then conducts a scientific assessment to ensure that the pesticide residue level sought by the manufacturer is in fact safe for human consumption. If such a request is accepted by the department, the existing residue limit is amended under the Food and Drug Regulations and is published in the *Canada Gazette*.

Honourable senators, up to two years can pass between the time the scientific evaluation is completed and when the new maximum residue limit is published in the *Canada Gazette*. This is a serious problem. In 1997, amendments to the Food and Drug Regulations put in place a process that would permit manufacturers and producers to bridge this time gap between the food's approval and its legal sale to consumers. Notices of interim marketing authorization have been used for the past eight years to allow food products to reach the marketplace as quickly as possible after it has been determined that their pesticide content does not pose a human health risk.

(1500)

In 1997, changes to the Food and Drug Regulations also gave the power to issue these authorizations to the Assistant Deputy Minister, Health Products and Food Branch, Health Canada. Section 30 of the Food and Drugs Act clearly extends this type of administrative authority only to the Governor-in-Council.

Two years later, in 1999, the Standing Joint Committee of the Senate and House of Commons for the Scrutiny of Regulations looked into the matter. This particular committee is, of course, charged with ensuring that all regulations are based in legislation. Its work does not draw a lot of attention, but it is valuable and essential, as the vast majority of the laws that govern Canadians are not directly found within legislation but, instead, come from regulations. As Senator Mercer told us last week, the standing committee has stated that it believes the power to issue interim notifications rests only with the Governor-in-Council, even if the time period involved is a short duration.

The bill now before is in response to those concerns. It proposes to clarify the situation by adding a subsection to section 30 of the Food and Drugs Act to specifically give the Minister of Health the power to issue interim marketing authorizations.

Health Canada reports that 82 interim marketing authorizations have been issued since the regulatory changes were made in 1997. As the regulation under which they were issued was not based in legislation, technically, all of these authorizations were illegal. I do not suggest that they somehow led to the introduction of unsafe food into the marketplace; rather, if we follow the strict letter of the law, the authorizations were not legal because there was nothing in the legislation to support them.

This bill also proposes amendments that will allow food products to be put on the market as quickly as possible after a scientific evaluation has confirmed the safety of their chemical residue. The exemption would be provided for certain groups of substances: veterinary drugs, vitamins, minerals and amino acids.

Should the bill receive the approval of this chamber, it would likely benefit Canadian food producers and manufacturers who would be better able to compete with their American counterparts. Currently, the United States Food and Drug Administration permits food products in that country to be marketed in the approval stage as long as doing so is not in violation of other legislation. If Canadian producers were given the same ability, it would serve to level the playing field.

Honourable senators, we are lucky that food safety issues are not always foremost in the minds of Canadians. The security of our food supply is often taken for granted; however, its protection requires continual vigilance on the part of many groups, including Parliamentarians. With that in mind, I am confident that this bill will be given thorough consideration in committee.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Cordy, for the second reading of Bill C-49, to amend the Criminal Code (trafficking in persons).

Hon. A. Raynell Andreychuk: Honourable senators, Bill C-49, deals with the issue of trafficking in persons. The bill's purpose, according to Justice Canada, is to provide for a criminal content to three areas of trafficked persons, namely: the movement of people across or within borders; threats or use of force, coercion or/and deception; and exploitation, whether forced labour, forced prostitution or other forms of servitude.

The bill itself contains three criminal prohibitions. The first contains the global prohibition on trafficking in persons defined as the recruitment, transport, transfer, receipt, concealment or harbouring of a person or the exercise of control, direction or influence over the movements of a person for the purposes of exploitation. The second prohibits a person from benefiting economically from trafficking, and the third prohibits the withholding or destroying of identity, immigration or travel documents to facilitate trafficking in persons.

It is to be noted that this bill will have effect for trafficking internationally and crossing Canadian borders, but it will also deal with trafficking within Canada.

While I believe the Standing Senate Committee on Legal and Constitutional Affairs should look at the application of Bill C-49 within the context of our criminal justice system, I do not believe that the criminal framework is sufficient to deal with the issue of trafficking in persons.

It is known to those who work with trafficked persons and to police authorities and international agencies that when penalties are heightened and criminal law tightened the victims of trafficking inevitably suffer greater consequences. If one were to look at the effect of any stronger penalties and tightening of trafficking flows, one would see that the victims of trafficking are still, first, trafficked and, second, subjected to even greater harm. It would be naive to think that legislation alone would stop

trafficking. It simply goes further underground, becomes more dangerous and trafficked victims suffer greater risk of violence.

To have Bill C-49 as an effective instrument for convicting traffickers, the victims involved will have to be part of the criminal process. In most cases, the type of victim protection services that we are used to in criminal law have little persuasion on victims in this case. The victims are already of a vulnerable group who have little or no confidence in themselves or in the systems. They have been heavily affected by the power and brutality of traffickers and are unlikely to be able to withstand the pressure of a prosecution where they will either have to testify or be the subject matter of the hearing. In many cases, fear of personal retribution or retribution on family members in their homeland or their communities is an effective tool used by traffickers to control the witness. Further, as we know the types of services needed for such victims are in short supply, and we have yet to build a system that is interrelated in its consequences, we know that the bill will have limited effect.

I am referring to the fact that trafficked persons themselves have no assurances that they will be allowed to stay in Canada, and the consequences of going home to a bleak future, and in many cases to derision from a community that inevitably finds out about the type of work these victims may have been doing, is sufficient to cause fear in the trafficked person. There are no assurances of the necessary refugee status, immigration status or the like.

(1510)

There are examples of long-term needs after women have been trafficked into the former Yugoslavia in time of war. Despite their rescue by United Nations procedures and by international organizations, these people suffered long-term psychological and physical damage.

While on the face of the intent of Bill C-49 I have no objection to its procedures, my concern is for an overall strategy to deal with trafficked persons in a more holistic approach and within a national framework policy to tackle this issue, instead of the piecemeal effort we have now.

We must determine whether we are looking at trafficked persons in a criminal sense, in an immigration sense or in an activity sense, such as prostitution, labour, et cetera. For example, we passed Bill C-27, as it was in 1997, to amend the Criminal Code in respect of child prostitution, child sex tourism, criminal harassment and female genital mutilation. We need to determine whether this act has had any effect for the benefit of children.

As well, we took an immigration approach to the field of trafficking when in 2001, in what was then Bill C-11, proposed legislation was designed to close the back door of immigration. Severe penalties were introduced and human rights were curtailed, with an increased focus on security measures. The government also made the distinction between smugglers and traffickers. We need to know whether this differentiation is valid in prosecutions and in the outcome for victims. For example, in the immigration process victims are not given special status as refugees or otherwise despite obvious harm to the victims. Still we

approach this field from a criminal and security version and not the protection of victims. Further, the international conventions dealing with human trafficking, while integrated into Canada's laws, need to be questioned from an international perspective. Human trafficking can be seen neither as a national issue nor as an overseas issue. It is time, in my opinion, to look at the "protection of people" as the guiding principle for all. If we believe sincerely in equal rights for individuals, then the less vulnerable need to be taken into account.

The issue of trafficking, in particular of women, is not new. Some say it is as old as civilization, with the old term "slavery" being replaced by the new term "human trafficking." Society's view and public policy determinations are varied, specifically in respect of the issue of migrant sex workers in Canada. A recent article by Leslie Ann Jeffrey in the Canadian Foreign Policy Journal, volume 12(1), the spring edition of 2005, states:

The issue of migrant sex-work or "traffic in women" as it is commonly known, has gripped the international agenda for about twenty years. The Canadian government has come rather late to this debate. Few in Canada were aware of the issue until the mid-1990's, when the arrests of a number of Thai and Malaysian women in Toronto on prostitution charges briefly catapulted the issue to national attention. The Canadian government was forced to recognize the problem and wade into the debates on trafficking that were raging at the international level. Feminists debate whether this phenomenon is a further development of global sexual exploitation of women, or simply another form of migrant labour; governments debate whether it is a criminal act, or a human rights issue. Slowly, the Canadian government has begun to carve out its position on trafficking, but this position reflects much more than concern over women's human rights.

Ms. Jeffrey also stated:

That is, the framework of traffic in women as a foreign and immigration policy issue adopted by the Canadian government allows for the externalization of the problem so that Canada retains its self-identification as a good, helpful nation — even as Canadian sex-trade and migration policies themselves constitute a large part of the problem. On the other hand, changing Canadian behaviour — most importantly through the decriminalization of sex work in Canada and the institution of policies that create good working conditions for all sex workers — is a large part of the solution. The treatment of migrant sex-workers simply as victims of trafficking is highly problematic on a number of grounds.

We need only remind ourselves of the debate that has yet to be fully completed in this country with respect to Minister Sgro's position on tabletop dancing and Minister Volpe's continuing responsibility in this area.

Another approach can be found in a compelling book entitled *The Natashas*, by Victor Malarek. The author delves into the buying and selling of human flesh for the worldwide sex industry,

which is organized and is crime's fastest growing business, with at least 2 million people globally, mostly women and children, being trafficked into the sex trade every year. At page 7 he states:

To me, *The Natashas* is about a generation of lost girls. Virtually every city, town and village in Eastern and Central Europe has seen some of its girls and women disappear. Incredibly, they weren't lost to illness or war or to the tragedy of famine or natural disaster. On the contrary, they have become expendable pawns in the burgeoning business of money, lust, and sex. What is most disturbing is that trafficking is a manmade disaster that can be prevented. Yet the world continues to ignore the plight of these women and girls. The time has come to stop the traffic.

Mr. Malarek 's conclusion is that this phenomenon will not stop the subjugation of women and children until such time as there is sufficient political will on a global basis to tackle this beyond criminal law.

For those who have not read Victor Malarek's book, allow me to comment today. He indicates that there have been many waves of immigration from Asia, Latin America and Africa to Canada. He documents the past decade of the most vulnerable from Central and Eastern Europe. The former Soviet Union and its satellite republics created a closed society. Although many freedoms were violated along with other human rights, some basic subsistence was given to all citizens in the recent years of communism. With the advent of the collapse of the Berlin Wall and the collapse of the Soviet Union, the hope of freedom and democracy soon became a distant reality in the lives of citizens in these countries. Although education was higher than it was, perhaps, in other parts of the world in transformation or development, few jobs and few opportunities were available, particularly in rural areas.

These women, who were by and large young women, were given hopes of jobs as nannies, housekeepers, models, actresses and even marriage partners. With many unemployed, they saw their hope for survival and that of their families in the escape to Western Europe, Turkey, Israel, the United States and Canada. In fact, these women became the most sought-after women for the sex trade around the world. Even those who were not so naive to believe the job offers and who likely knew they were going into the sex trade, the reality became horrific. Organizations, gangs and individuals quickly turned them into commodities to be bought, traded, abused and, in some cases, killed.

It should be mandatory reading for all of us to go through the chapters of Mr. Malarek's book in which he graphically details the stories of some of the "Natashas."

• (1520)

Despite the United Nations and Canadian assistance to free unwilling victims in the former Yugoslavia, the other seamy side of our involvement came through the use of these sex trade workers. The UN and NATO personnel, international aid agencies and all rival factions used these women in the area of conflict. Mr. Malarek's chapters on the agony of these young women are heartbreaking. Their distrust of authority, having

grown up under a repressive regime, and their inability or lack of awareness to deal with this new competitive and open society is explained fully.

When one reads Mr. Malarek's book, one wonders whether the contemplated protections in Bill C-49 are of any benefit to these young women. They are afraid of being deported home. They are afraid of testifying against their captors. They have few language skills. They have distrust of authority. They have a fear of being exposed so that when they return home they will not be allowed to integrate. This is the seamy side of western societies who now absorb thousands of Central and Eastern European women into the sex trade.

The conclusion of Leslie Ann Jeffrey's article states that many of our legal and immigration measures further penalize these vulnerable women. A global and international effort is needed to end this appalling abuse of human rights. There is no quick fix and no piece of legislation should be left as the answer to this very human problem.

Honourable senators, I also want to touch on the trafficking of children. To me, the trafficking of children violates not only the children but their rights under the Convention on the Rights of the Child, a promise we have made to the children of this world. Clearly, the most signed and ratified document on human rights legislation the world has ever seen still has not rallied the international community sufficiently to address this as a global and pressing issue.

Child labour, child slavery, child soldiers, child prostitution and immigration issues for children are but a few of the problems we need to address. However, I am hopeful that the Standing Senate Committee on Human Rights will address these issues in the next phase of its study on the Convention on the Rights of the Child. Therefore, I am hopeful that we will look more globally and holistically, not only with a view to exposing these problems in a more systematic way but also to find some public policy solutions within the Canadian and international context.

Honourable senators, I believe that the bill should be studied in the Standing Senate Committee on Legal and Constitutional Affairs. It should be reviewed in relation to other pieces of legislation that we have studied for consistency and constitutionality. Senators on this side are not opposed to Bill C-49 and would support it. We simply want to say as a public policy statement that it is not enough to address the issue of human trafficking.

Hon. Jerahmiel S. Grafstein: Would the honourable senator afford me a question or two?

Senator Andreychuk: Of course.

Senator Grafstein: I agree with her conclusions that we should get the bill as quickly as possible to the committee for study. As she is well aware, United Nations and OSCE resolutions have paralleled each other for the last six or seven years. A resolution was again passed in Washington in June and contained two parts. The first dealt with the criminal aspects of the perpetrators in an effort to solve or at least remedy this horrendous slave trade. The second part dealt with protecting the victims.

The Americans have dealt with this issue. In a fine speech made last week by our colleague Senator Phalen in response to Senator Jaffer, he referred us all to the U.S. Trafficking Victims Protection Act. I assume that this act is really the other answer to many of the honourable senator's concerns. Is that correct?

Senator Andreychuk: I want to pay tribute to the OSCE. I think that its work and that of parliamentarians have exposed many of the issues surrounding the women and children of Central and Eastern Europe. However, I do not think this is entirely the answer. There is a criminal aspect to human trafficking, and there is also the protection of witnesses.

Ann Jeffrey's point is that we must look deeper. We have to look at prostitution around the world and determine our public policy in this regard.

As we speak, the House of Commons is wrestling with whether to legalize prostitution, and there has been some activity there. We must come to grips with the whole concept of prostitution.

More important, the women who have left Central and Eastern Europe — and I am especially familiar with the women who have left Ukraine — are not leaving for lack of love of their country. They are not leaving because they wanted jobs. They are leaving because there is no stability in their countries yet. They are living in poverty and see very little hope for the future.

Many people are trafficked as a result of the social conditions in which they live and the legal framework. I think we have to attack this problem on all levels.

I commend the OSCE for picking up two points, but I think attacking the problems of the transformation and development of these countries is equally important.

One of the dilemmas is that we need to work with the countries from which these women and children are leaving, where police forces and bureaucracies are reluctant to expose or talk about the problem because they are trying to get into the new world, as it is called. They will not expose what they see as the seamy side of their own structures. We must work with these countries for a global effect and acknowledge it is a problem in Russia, Ukraine, Canada, Korea, wherever it occurs. It is a global phenomenon.

Senator Grafstein: I thank the honourable senator for her response.

I may have taken the OSCE resolution out of context. I will send it to the honourable senator and circulate it to our colleagues. I think it is a more fulsome solution or series of solutions.

The Americans are the leaders on bringing this issue to the OSCE's attention, and I support them. The Americans introduced this important piece of legislation. As Senator Phalen points out, it deals with victim protection with respect to giving evidence on the criminal side, but it goes further. It supports them as refugees and gives them benefits.

Does the honourable senator agree that if we introduced a private senator's bill as a companion piece, we could send it to her committee or the Standing Senate Committee on Legal and Constitutional Affairs so that both issues could be dealt with at the same time? If the honourable senator agrees, I will undertake to do that.

Senator Andreychuk: I agree that we can do more with respect to witness protection and perhaps introduce a bill similar to the U.S. legislation. However, I also know from many years of prosecuting that the minute we find solutions to criminal acts, criminals have the means, resources and technologies to move one step ahead.

The women's groups with which I deal say, "Yes, by all means do that. It will be helpful, but do not stop there." We have to understand that when people fall into the clutches of the traffickers, the repression simply heightens and the perpetrators resort to more violent means against these women, despite our best intentions.

Hon. Marcel Prud'homme: Honourable senators, I would like to say a few words on the main motion, but I will not delay the passage of this very important piece of legislation.

I wholeheartedly agree. As is usual most of the time, Senator Andreychuk has expressed my exact views, and I need not repeat what she has said.

• (1530)

There is nothing more disgusting than the actual situation. If we can make one step in the right direction as Canadians, we will show the rest of the world that we mean business. When this bill is sent to the committee, this afternoon, I would hope, it is my wish that in its study the committee will have enough time to look at the practical side of it. It is my hope that if not committee members then at least staff will visit bars in Toronto, Montreal and Vancouver, to learn about what is really going on — slavery. The committee should talk to some of the women, who for economic or other reasons, as Madam Andreychuk pointed out, saw fit to do what they are doing today.

I believe we should continue not only our study to pass the bill, but go a further step after that. However, if we ask for too much, we will not get anything. It is a step in the right direction. It can be polished. It can be reviewed in the committee.

The district I was born in —the same district in which I live today — was not the same then as it is now, but I still live there. Daily, I see examples of how disastrous things are around me. I do not live in a posh place in Montreal, as I probably could; I still live where I was born. What I see disgusts me so much; there are tragedies of all kinds.

I talk to the people who go through these things that are unacceptable to us but may seem acceptable to them to get out of trouble. They realize that, once in, they can never get out.

It is my hope that the committee will look into this subject. If the committee needs practical examples, where could you find these people? Let us not kid ourselves, there are good Canadians taxpayers profiting from trafficking in people.

Very strangely, they are known — the security forces know them. Very strangely, they are living happily, making more money out of these tragedies. I would hope the committee will look into it.

I wish to say that, when the time comes, with my little bit of experience — human experience, political experience, local experience — I would be more than delighted to go and be a witness to what the committee will do. I certainly will vote for that step, because it is a step in the right direction.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

Hon. Bill Rompkey (Deputy Leader of the Government): I move that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

REMOTE SENSING SPACE SYSTEMS BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Peterson, seconded by the Honourable Senator Zimmer, for the second reading of Bill C-25, governing the operation of remote sensing space systems.

Hon. Consiglio Di Nino: I am pleased to contribute to the debate on this issue. Before speaking to the substance of the bill, I wish to address the issue raised by Senator Peterson in the first paragraph of his comprehensive speech of October 20 past. He said:

Let me take this opportunity to ask honourable senators to give the passage of Bill C-25 their most urgent consideration, based on the timely need for the bill; on the bill's features that are responsive to both government and private sector needs; and on the desire to reap the benefits that this bill could have for government, industry and all Canadians

Honourable senators, Bill C-25 was introduced in the other place on November 23, 2004, and passed on October 5, 2005. This is hardly urgent consideration, as Senator Peterson would have us believe. If urgency were required in dealing with this bill, in my opinion, the other place failed.

Although we should not unduly hold up proposed legislation, our role and mandate is to thoroughly analyze and effectively debate all bills that come before us, particularly when dealing with such a technically complex issue as this one, with serious consequences for Canadians' privacy, security and, yes, profit.

Bill C-25 is about creating a licensing regime for remote sensing space systems and establishing legal and regulatory controls for the use and distribution of the data gathered. These systems are sophisticated satellites that can photograph from space, with scary accuracy, the surface of the earth and everything on it.

Honourable senators, Canada is at the forefront of this technological marvel. We became world leaders in 1995, when we launched RADARSAT-1, a government owned and operated state-of-the-art satellite known for its reliability, high performance and effectiveness. RADARSAT-1 uses a microwave radar system called "synthetic aperture radar," which beams energy at the earth and captures its return reflections in astonishing detail.

Senator Peterson said that RADARSAT-1 can see with the clarity of eight metres resolution, and does this regardless of light, cloud cover, rain or other natural phenomenon.

Honourable senators, RADARSAT-1's benefits are many. It can help as a tool to deal with natural disasters and, indeed, possibly avoid them, or at least lessen their impact. The satellite's commercial applications are of immense benefit, including as an exploration tool to identify potential sites and monitor their operations. RADARSAT-1 is also used to monitor Canadian perimeters, assisting in safeguarding our sovereignty, particularly in the Arctic; and, obviously, it has military applications.

Late in 2006, RADARSAT-2 is to be launched. Unlike its predecessor, it is to be privately owned and operated. Thanks to technological advances, this newest version is capable of much more than the original, which has been operating for 10 years.

For instance, RADARSAT-2 will have the capacity to see clearly from space with a three-metre resolution as opposed to the eight metres of its predecessor. If my information is correct, it can detect a human figure. I cannot speak for colleagues, but for me this is science fiction.

While I can understand the benefits of these systems, I confess I am concerned about the potential for abuse and misuse related to this technology. Issues of privacy, spying both for military and

commercial uses, infringement on provincial jurisdictions — these are just some of the areas we need answers to. The question of absolute power granted to the minister in this bill also needs to be looked at.

Honourable senators, in fairness, this bill attempts to deal with some of the issues. Let me list some of them for you.

• (1540)

First, the bill provides restrictions on the distribution of data acquired by the systems and establishes a regulatory regime for facilities that use remote sensing space systems and for the personnel who operate them, as well as for its data and the derivative products.

Second, this regime licences the operators of remote sensing satellite systems in Canada, as well as Canadian operators of systems located outside of the country, and allows the Canadian government to decide who requires a licence, how and by whom licences are issued, approved, amended, renewed, suspended or cancelled, and under what conditions a licence may be required to interrupt service, or provide access to the Government of Canada.

Third, this proposed legislation seeks to protect Canada's national defence and security interest by ensuring that adequate measures are in place to regulate dissemination of images taken by Canadian satellites. This act will give the Canadian government the authority to order priority of access or the interruption of normal service in order to protect its national security, defence or international relations interests, and to observe international obligations. This bill also enables applicants to have their application for licensing approved early on in the satellite's development in order to secure the necessary private investments, establish funding, et cetera.

Lastly, provisions in this bill allow the minister to order a licensee to provide the government with any service desirable to the Government of Canada for the conduct of international relations, defence interests, critical infrastructure protection, or emergency preparedness.

Recognizing the complexity of this matter is advanced science and, with my unfamiliarity with technology and science, I confess to having a sense of discomfort about the regulations that will govern this industry, particularly since the authority to operate and monitor the systems is being transferred to the private sector. The legal and regulatory regime to administer it must contain the safeguards necessary to protect Canadians from misuse and abuse of the data collected. Our job is to make sure that it does. The committee hearings need to flesh out the answers to these and, hopefully, many other questions.

Finally, colleagues, I sincerely hope the comments made by Senator Peterson about the speedy passage of this bill are not a message to duly rush the examination of this most important subject.

The Hon. the Speaker: I see no senator rising to speak or adjourn the debate.

An Hon. Senator: Question!

The Hon. the Speaker: Is it your pleasure, honourable, senators to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall the bill be read the third time?

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Foreign Affairs.

THE ESTIMATES, 2005-06

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (A)

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of October 27, 2005, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2006.

The Hon. the Speaker: Do you wish to speak, Senator Rompkey?

Senator Rompkey: Question!

The Hon. the Speaker: Is it your pleasure, honour senators, to adopt the motion?

Motion agreed to.

CANADIAN HUMAN RIGHTS ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Hon. Noël A. Kinsella (Leader of the Opposition) moved second reading of Bill S-45, to amend the Canadian Human Rights Act.

He said: Honourable senators, the purpose of this bill is to address the denial of antidiscrimination statutory protection to the Aboriginal people of Canada.

As honourable senators know, the Canadian Human Rights Act is our federal antidiscrimination statute. The Canadian Human Rights Act was adopted by Parliament in 1977, and the federal Parliament was one of the latter legislative bodies in Canada to enact such antidiscrimination law.

Although, in all the jurisdictions now — that is, in both the provinces and the territories, and since 1977 federally — we have had statutes called "the Human Rights Act," they are, in effect, antidiscrimination statues. They do not deal with the full range of human rights. Frankly, the title is larger than the reality of the area that is covered by the antidiscrimination statute and by other federal, provincial and territorial statutes.

When the Canadian Human Rights Act was enacted, it provided section 67. Section 67 excluded those members of First Nations governed by the Indian Act from protection of the Canadian human rights framework. The Canadian Human Rights Act and the services of the Canadian Human Rights Commission were not available. In a sense, we had a statutory discriminatory provision in our Canadian Human Rights Act, which is somewhat of a paradox. We said that we would allow all the other Canadians, save and except those under the Indian Act, to have the benefit of the law, which was the antidiscrimination service, in the area of federal jurisdiction, but not our First Nations peoples.

This section is at least an accident of history. It was included in order to address concerns that, if the human rights framework were made accessible to Aboriginals, it would have the ancillary effect of altering the Indian Act. That was the argument at the time. There was significant pressure to avoid that situation. Canadian governments have assured Aboriginal communities that they would not alter the Indian Act without full consultation with our First Nations communities.

It was thought at the time that a replacement for the Indian Act would be imminent. Well, negotiations and consultations have taken place since the 1969 white paper called for the replacement of the Indian Act. As all honourable senators and Canadians know, these discussions have not been overly successful, to say the least. It was made explicitly clear at the time that the Canadian Human Rights Act was introduced that section 67 would be a temporary provision.

The Minister of Justice at the time, well known to many members of this house, the Honourable Ron Basford, stated that, "Parliament will not look favourably on continuing this exemption forever or very long." Unfortunately, Parliament has not lived up to Minister Basford's expectation. We have allowed a segment of the Aboriginal community to languish, in a sense, in a human rights, antidiscrimination protection vacuum for some 28 years.

(1550)

The Canadian Human Rights Act is separate and apart from the Indian Act. We are talking here about the Canadian Human Rights Act, not about the Indian Act. We are talking about equality rights as protected by statute. We all know that there is a constitutional protection in section 15 of the Charter, but this bill deals with the statutory antidiscrimination protection, to which, unfortunately, for more than 28 years first Nations people have been prevented from having access.

First Nations peoples living on reserves have been waiting for 28 years for this temporary legislative measure to be corrected,

and they should wait no longer. Here in Parliament we can change the Human Rights Act immediately, and I submit that we should do so.

It might be tempting to believe that this issue has flown below the radar for the past 28 years. However, let me remind all honourable senators that that is not the case. There has been no shortage of formal and official calls to repeal this section. Human rights advocates, Aboriginal community leaders, academics and government representatives have all voiced the emphatic view that this section ought to be repealed.

Before it was even enacted, section 67 of the Canadian Human Rights Act caused grave concern. At the time this legislation was first debated in the House of Commons, one member of the other place, the NDP member for New Westminster, Mr. Leggatt, stated in that House:

Human rights legislation has to protect everybody and must not provide exemptions here and there...Human rights legislation, to be worth its salt, must include groups which are clearly discriminated against. The Minister has missed several groups.

Clearly, the deficiency of the section was not lost on members 28 years ago. A fellow New Brunswicker and the first chair of the Canadian Human Rights Commission, Gordon Fairweather, who is known to many senators, also pointed out the inequity of the section when he stated in committee:

...we are carrying on a very serious inequality for Indian women...what we do...is continue the very inequality that my friend speaks of...

Honourable senators, the negative impact of passing section 68 was not lost on any of the parties involved in examining this bill. Critics, however, such as the aforementioned members, were assuaged by the reassurances of the then minister of justice who said:

The government has undertaken, in good faith, not to amend the Indian Act except as a result of that process of consultation...it would be very wrong at this particular time to upset what is a working relationship...towards the revision of the Indian Act. I do not think we want to jeopardize that machinery and that relationship. I would like to see a quick solution, but that process...is a long one...The process I speak of has been in place for two years and I think, hopefully, will produce some results.

That was 28 years ago. It is now patently obvious that the process to revise the Indian Act has been unfortunate and unsuccessful. It is time that the Canadian Human Rights Act is dealt with directly and is amended to finally reflect reality rather than a hypothetical situation that may or may not exist at some indeterminate point in the future.

The reality is that Aboriginal people in Canada do not have equal access to the human rights protections and complaint processes that other Canadians take for granted. This is not an academic argument or an esoteric, hypothetical situation. We saw a native community evacuated from their homes as late as last week due to the inadequate provision of a basic need — safe drinking water. These individuals are currently prohibited from availing themselves of the protection of the Canadian Human Rights Act, explicitly because of section 67. How might they have otherwise used it? One of the areas of non-discrimination covered under federal jurisdiction is the provision of services, and one might very well concede that this would have been seen as a denial of the a fundamental service under federal jurisdiction. However, the availability to make that claim is not present because of the provision of section 67 that excludes First Nations peoples from filing complaints under the Human Rights Act.

The day after Bill S-45 received first reading here in the Senate, the Canadian Human Rights Commission released a report entitled A Matter of Rights: Special Report of the Canadian Human Rights Commission on the Repeal of Section 67 of the Canadian Human Rights Act. Honourable senators, in this report released last Wednesday, the Canadian Human Rights Commission tells us that they receive approximately 20 complaints a year from First Nations people that the Human Rights Commission is precluded from hearing due to the exclusion created by section 67. This amounts to over 560 potential human rights abuses that have never been heard by the Canadian Human Rights Commission and have never been rectified because section 67 does not afford First Nations people the same rights as other Canadians. There is no telling how many other complaints do not even reach the commission because the potential victims know that they have no access and, therefore, do not bother even making a call just to be told, "Sorry, we can't help you.'

Suggestions, calls, proposals to repeal the section have continued without interruption since the federal act was passed in 1977. I have mentioned the timely report of the Canadian Human Rights Commission. The commission characterizes section 67 as a long-standing and unacceptable gap in human rights protection in Canada. The federal commission also argues convincingly that section 67 would not likely withstand Charter scrutiny. The Canadian Human Rights Commission calls for the immediate repeal of the section.

Such a position is by no means unprecedented. In the year 2000, former Supreme Court Justice Gérard La Forest penned the Canadian Human Rights Act review panel's report entitled *Promoting Equality: A New Vision*. By the way, that panel consisted of Professor William Black, Me. Renée Dupuis and Professor Harish C. Jain, along with Justice La Forest.

In their report, they considered a wide array of options to address First Nations' lack of access to human rights framework. I would to quote one short passage from that report as follows:

...the Act must reflect truly universal values that have been accepted internationally. We believe that all Canadians, Aboriginal and non-Aboriginal alike, have a right to equality without discrimination.

The panel concluded that to exclude Aboriginal people from the protection provided against discrimination to all individuals in

Canada is not appropriate and therefore recommended that section 67 be removed from the act and that an interpretive provision be incorporated into the act to ensure that an appropriate balance between individual and Aboriginal community interests is struck. That is why you find that substantive provision in Bill S-45.

• (1600)

The argument is simply that it is widely recognized that Aboriginal communities share a very different concept of rights. Aboriginal values emphasize collective rights, rather than the philosophy that highlights individual rights. In order to ensure that values that are extraneous sociologically to First Nations be acknowledged, it is necessary to recognize that unique perspective and to commit that we will respect it.

This provision ensures that the interests of the individual and the community are properly balanced. Such a provision is entirely consistent with the United Nations Draft Declaration on the Rights of Indigenous People, which calls on states to take measures to assist indigenous people to protect their cultures, languages and traditions. The cause is an important one and has found expression word for word in a government initiative that died on the Order Paper.

Honourable senators, section 67 of the Canadian Human Rights Act has also come under fire from sources outside Canada. The United Nations has often criticized Canada for continuing to include such a vociferous affront to equality rights in, of all places, the Canadian Human Rights Act. Canada's international reputation as a country that respects and promotes human rights diminishes should we decline to change this anomaly.

The United Nations Human Rights Committee was responsible for the enforcement of the International Covenant on Civil and Political Rights, which Canada ratified and has been subject to under international treaty law since 1976. The United Nations Human Rights Committee continues to express great concern over the fact that the situation facing Aboriginal peoples remains the most pressing human rights issue that Canadians need to address.

The Human Rights Committee of the United Nations directly addressed the fact that Aboriginals do not have access to the human rights framework. That committee of the United Nations recommended that the relevant human rights legislation be amended so as to guarantee access to a competent tribunal and to offer an effective remedy in all cases of discrimination.

Further, on the international scene, the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, Rodolfo Stavenhagen, is charged with gathering and exchanging information from all relevant sources, including governments, indigenous people and their communities and organizations on violations of their human rights and fundamental freedoms. His mandate is to formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the human rights and fundamental freedoms of indigenous people.

In his 2004 report entitled "The Situation of Human Rights and Fundamental Freedoms of Indigenous People: Mission to Canada," Mr. Stavenhagen highlighted the continuing discrepancy in the level of health standards, housing conditions and social services between Aboriginals and non-natives. As part of his recommendations, Mr. Stavenhagen called for the repeal of section 67.

In 2005, the House of Commons Committee on Aboriginal Affairs and Northern Development also called for the repeal of section 67. The committee of the other place agreed with witnesses who felt that it was the necessary step required to open an avenue of redress for Aboriginals whose human rights had been violated. The committee recommended:

...the government undertake an immediate review of the Canadian Human Rights Act with a view to protecting on-reserve First Nations individuals from discrimination under the Indian Act.

Honourable senators, on October 17 and 18, 2005, I had the pleasure of attending a hearing of the United Nations in Geneva. During this meeting, Canada responded to inquiries pertaining to our country's fifth report to the United Nations Human Rights Committee on our compliance with the International Covenant on Civil and Political Rights. Six years after the United Nations Human Rights Committee first recommended that Aboriginal people be afforded access to a human rights framework, Canada had still not made any progress on that point. Thus, the committee questioned Canada on the continued existence of this exemption in the Canadian Human Rights Act, which they found quite inconceivable, being that it was based on race. I observed our representatives attempting to explain why this section still exists after years of recommendations to repeal it. I was uncomfortable to hear our representatives have to defend such an obsolete provision and, in doing so, yet again commit that we would do something about it.

Honourable senators, the living conditions in which many of our Aboriginal people find themselves has caught the attention of this nation. The Human Rights Commission has, as I mentioned last week, released its report calling for the repeal of section 67. Thus, it is both timely and right that we finally rectify a 28-year-old non sequitur of our human rights record. The Senate of Canada is well-situated to defend and promote the rights of minority groups.

I can think of no better example for all members of this honourable house to agree to support Bill S-45 and to repeal section 67 of the Human Rights Act. This bill is long overdue. Each day that section 67 remains in place, the basic human rights of Canada's Aboriginal peoples are further subjugated.

I encourage all honourable senators to support this bill and to contribute to the committee work that will demonstrate Senate leadership for Canada's commitment to its Aboriginal people.

Honourable senators, I conclude, recalling the salient words of the Chief Justice of our Supreme Court this past year: The honour of the Crown is always at stake in its dealings with Aboriginal peoples...It is not a mere incantation, but rather a core precept that finds its applications in concrete practices.

Honourable senators, I ask for your support in assuring that the next time our human rights program representatives attend a hearing in Geneva they can hold their heads up high and report that we have finally repealed section 67 of the Canadian Human Rights Act.

Hon. Serge Joyal: Would the Honourable Senator Kinsella accept a question?

Senator Kinsella: Yes, I would.

Senator Joyal: I wish to commend the honourable senator for his initiative. His credentials in relation to the Canadian Human Rights Act are well known by senators in this chamber. Senator Kinsella took initiatives in the past to amend the Canadian Human Rights Act that have proven successful, especially in relation to sexual orientation. He did that persistently and rationally. The archive speaks to the honour of the honourable senator.

The honourable senator's bill contains two clauses. He has spoken most with regard to the second clause which reads: "Section 67 of the Act is repealed." I would support that provision of the bill wholeheartedly.

However, the honourable senator has added an amendment to proposed section 16.1, which I would ask the honourable senator to explain. I listened to him carefully. Proposed section 16.1 reads:

In relation to a complaint made under this Act against an Aboriginal governmental organization, the needs and aspirations of the aboriginal community affected by the complaint, to the extent consistent with principles of gender equality, shall be taken into account in interpreting and applying the provisions of this Act.

This is an important provision because the honourable senator makes an exception consistent with the principles of gender equality. The Canadian Human Rights Act has grounds of discrimination that are wider than gender inequality, for example, racial equality, sexual orientation and so forth.

(1610)

Why has the honourable senator identified that aspect of the act as being an exception? Why does the honourable senator feel that proposed section 16(1) should be included in that act?

Senator Kinsella: It is there for three reasons, inter alia. One reason is that the bill that died on the Order Paper in the other place was a government bill, and Bill S-45 is virtually word-for-word. My objective is to get the Canadian Human Rights Act amended, and I do not care who gets the credit for it. It is a human rights act, not the Indian Act, which is important to understand. It is our federal antidiscrimination statute. If the justice minister called and said he will introduce a bill tomorrow,

he would have my support. To expedite matters in a case where the government obviously was supporting that kind of language in the bill that it brought forward, I thought I should not be overly creative in my own draft.

Second, more substantively, however, in the review of the Canadian Human Rights Act by Mr. Justice La Forest and his three colleagues, they went into some detail on this very point. They made that recommendation. They did a great deal of consultation with First Nations people. My network is very small, compared with the network available to the government as well as to that panel, so I wanted to build upon that experience.

Third, the experience in this chamber is that we have looked at a number of First Nations government bills and have learned a great deal about self-government and the social objectives of the communities. That section wants to be respectful of the social objectives of that community as defined by that community.

However, there are a few non-negotiables, one of which is gender equality. That, of course, is the *Lovelace* case, and our distinguished colleague Senator Lovelace can speak eloquently about it. That is why that section is there.

Whether the committee that examines this bill will focus on that precise wording or change the model — perhaps the government has had second thoughts. That is why we have committee study.

Hon. Tommy Banks: The honourable senator mentioned that the government's previous reticence to this amendment was the resultant necessity of amending the Indian Act. I am wondering if the honourable senator knows offhand which parts of the Indian Act would be subject to the consequential amendments to which they refer.

Senator Kinsella: I thank the Honourable Senator Banks for his question.

When the original Canadian Human Rights Act bill was being drafted in the 1976-77 era and brought into Parliament, it was pre-Charter, pre-Canada Act 1982. There was a great deal of discussion between the Government of Canada, the Department of Indian Affairs and Northern Development and what was then called the National Indian Brotherhood. They were in the early days of attempting to achieve recognition of Aboriginal self-government, and part of that meant having the responsibility of defining who would be a First Nation's person. There was discussion that, perhaps, the Indian Act as crafted was way outdated. There were significant amounts of negotiations around the Indian Act and what to do with it.

However, at the same time, there was, in my opinion, insufficient recognition of equality rights. In particular, section 12(1)(b) of the Indian Act was still in play. Under that section, if an Indian man married a non-Indian, his wife became an Indian, but if an Indian woman married a non-Indian, the Indian woman lost her status. That was deemed to be quite okay.

In fact, that matter in the cases of *Bédard* and *Lavell* went to the Supreme Court of Canada, when the court was using the Diefenbaker Bill of Rights as the standard. The standard was

the same in terms of gender equality, and the Supreme Court split five to four. The minority opinion was written by the then Chief Justice Bora Laskin, but the court decided that that was what Parliament decided to do and it was okay. That is why Senator Lovelace, finding herself in that same situation, felt she had to file a communication under the Optional Protocol to the International Covenant on Civil and Political Rights.

I recall a conversation with Prime Minister Trudeau at the time. I said, "You are probably annoyed with me for promoting this." He said, "No, I am glad because I am not making much progress with the National Indian Brotherhood."

It is interesting to underscore the point that although one of the members of the United Nations Human Rights Committee, the independent expert from Tunisia, concentrated on the gender discrimination in the Indian Act, the decision of the majority turned not on gender discrimination but on the effect of 12(1)(b), the denial of a cultural right, namely, the right to live in one's community and speak one's language with the members of one's community. It was article 27, dealing with cultural rights, of the International Covenant on Civil and Political Rights that the Lovelace case turned on.

In a sense, those were the early days of the struggle for Indian self-government. It was pre-Charter. However, there was a clear message to the government that, if you want to bring in this human rights act, exclude from it anything affecting the operation of the Indian Act. As Mr. Basford said at the time, "Okay, we will do this, but it cannot continue. It will be a short-term measure." The Minister of Justice of the day said, "We understand, we are in negotiations and we are showing good faith," but then they just continued and it has to be cleaned up.

Hon. Jerahmiel S. Grafstein: Following up on Senator Banks, could the honourable senator tell us the position of Mr. Phil Fontaine, the National Chief of the Assembly of First Nations, on this amendment?

Senator Kinsella: I would have to check the record, but my understanding is that he was supportive of the government's bill, which died on the Order Paper, which is virtually the same.

On motion of Senator Rompkey, debate adjourned.

• (1620)

[Translation]

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Ferretti Barth, for the second reading of Bill S-43, An Act to amend the Criminal Code (suicide bombings).

Hon. Hugh Segal: Honourable senators, with pleasure and humility I rise in this House to express my support and that of my Conservative colleagues for Bill S-43. I note that this is my first speech in this place. I hope you will permit me a few minutes to make a few introductory remarks and to express my gratitude.

[English]

I am, honourable senators, overwhelmed with the opportunity to work in this chamber with so many who have done so much for their country, both in this place and before being summoned.

All honourable senators bring with them to this place very specific experiences in politics, public service, business, academe, community service, volunteer work, government, the professions and agriculture, which inform their participation and enrich this chamber.

However, that is not specifically how or why we were summoned to this place. We were all summoned to this place because a specific Prime Minister at a specific time in history gave direct notice to the Governor General to summon us to this place. In my case, it is the Right Honourable Paul Martin to whom I owe the privilege of serving in this chamber, and it is only appropriate that I express my appreciation to him for appointing someone from an opposing political affiliation to this place before I make any other substantive observations.

Hon. Senators: Hear, hear!

Senator Segal: Honourable senators, I was as surprised to get the call as I suspect he was to make it.

I was particularly delighted on the day I took my oath of allegiance to Her Majesty in this place that my 80 year-old Uncle Max, replete with his medals and decorations, could be hale and hearty in the galleries, with family and friends. He is my late mother's younger brother, who fought up the spine of Italy in World War II with the Princess Louise Dragoon Guards, having taken heavy shrapnel wounds at Montecassino, but, after a short convalescence, went on to be among those who liberated the Netherlands with the Canada patch on their shoulder.

Max's father, my grandfather Ben, started the first kosher bakery in Montreal, on Boulevard Saint-Laurent, soon after his arrival here from the Austro-Hungarian empire in the 1890s as an economic immigrant. I cannot imagine what he or my late father, who drove a cab in Montreal to make ends meet — himself a political immigrant to Canada in 1919 with his sisters, father and mother from the tyranny of the communist revolution in Russia — would think about the senator who addresses this chamber at this moment. I suspect they would conclude, wherever they are, as we speak, that Canada was the right place for them to have chosen and that keeping this country strong, vibrant, free, welcoming, economically dynamic and humane was something each of us in our own way has a duty to ensure.

My profound respect for colleagues in this place and the superb work done here in no way diminishes my commitment, advanced in 1998 while seeking the leadership of my party, to see the democratic legitimacy of the Senate broadened by a more democratic reform of how seats in this chamber are filled, as

was proposed in both the Meech Lake Accord and the Charlottetown accord negotiated between first ministers and Prime Minister Mulroney.

While I recognize that Prime Minister Martin has said that Senate reform must await an interprovincial consensus, I would certainly be delighted to tender my resignation should an agreed-to federal-provincial reform plan be in place for this chamber and benefit from the resignation of as many of us as possible. Without in any way being partisan, I am optimistic that should Mr. Harper form a government, Senate reform would be a priority in his first mandate.

Some Hon. Senators: Oh, oh!

Senator Segal: Honourable senators, I want to say a word, with your indulgence, about my designated division of Kingston—Frontenac—Leeds.

[Translation]

For 300 years, Frontenac County has had a significant francophone presence. The county mirrors our country: a collection of anglophone and francophone communities working to shape a common destiny. At many points in my life as a child in Montreal, a student at the University of Ottawa, political advisor in the offices of Mr. Davis and Mr. Mulroney, and a resident of Kingston, I have seen just how much this linguistic duality was one of Canada's great strengths. I am one of those who firmly believe that Canada's full development is contingent on the success of our minority francophone communities. As senator for Eastern Ontario, I will do everything I can to contribute to this in my region, my province and throughout Canada.

[English]

Kingston—Frontenac—Leeds is also the area that was served in the past by two MacDonalds: the Honourable Flora MacDonald, who continues as a Privy Councillor to give honour and substance to the notion of selfless public service in so many ways, and, of course, the other Macdonald, as we refer to him in our constituency, Sir John A., whom we celebrate and commemorate in Kingston, but not quite enough.

I will be supporting the proposal by Senator Joyal with respect to the home of Louis-Hippolyte LaFontaine in Montreal. We have one building, honourable senators, in Kingston, now housing a popular snack bar, where Sir Oliver Mowat, Sir John A. Macdonald and Sir Alexander Campbell, all Fathers of Confederation, practised law together. Sir Alexander Campbell was a Father of Confederation in most of Macdonald's cabinets, serving in those cabinets from this chamber, to which he was appointed by Royal Proclamation to be the first senator from Cataraqui. I mentioned the other day to Senator Champagne that Senator Campbell was born of Scottish parents who lived in Montreal but was sent at a young age to la Séminaire de Saint-Hyacinthe to learn French. That is how a country is built. I shall follow the progress of Senator Joyal's proposal, searching eagerly for precedents we might apply to Kingston at the earliest opportunity.

Liberal colleagues will know that Senator Alexander Campbell was followed by distinguished senators such as Rupert Davies, the esteemed publisher, Senator Francis Frost, an industrialist, Senator Arthur Hardy, a distinguished lawyer and former

Speaker in this chamber. In fact, John Meisel, the famous professor emeritus of political science at Queen's University, was the Arthur Hardy Professor of Political Science for many years. Conservative senators on this side will know that our side has included appointments such as Senator John Hamilton, who was a shipowner, Senator Henry Richardson, who was a grain merchant of great standing, the Honourable Michael Sullivan, a physician and professor at Queen's University, and the Honourable George Taylor, a former member for Leeds and an industrialist, and the Honourable George White, who was a lawyer, member for Hastings—Peterborough, and both government whip and Speaker in this chamber. I am honoured and somewhat overwhelmed to be standing where they stood.

[Translation]

Kingston-Frontenac-Leeds has some very rich and very prosperous suburbs and some very disadvantaged areas. In my work as a senator, I will make fighting poverty one of my main causes, particularly from the point of view of the urban-rural gap that is threatening the socio-economic well-being of many of our constituents. Giving rural communities the chance to be full participants in the 21st century economy has to be a priority at all levels of government.

I intend to work wholeheartedly on promoting this opportunity for equality. I note with much interest the initiative of Senator Poulin on this matter.

[English]

I also want to commend the work done by Senator Pearson, Senator Johnson, former Senator Erminie Cohen from New Brunswick and, of course, the landmark work done by Senator David Kroll some decades ago on this front.

• (1630)

In Kingston, the strong and constructive presence of Canadian Forces Base Kingston, the regular dispatch of soldiers, airmen and sailors to trouble spots around the world, and the importance of the Royal Military College remind us all how our men and women in the Canadian Armed Forces reflect and defend Canadian values at great risk to themselves in so many ways all the time. My support in this place for the men and women of our Armed Forces, along with others such as Senator Forrestall, Senator Meighen, Senator Kenny and Senator Atkins, will be, in addition to my concern about poverty, a defining priority.

[Translation]

On behalf of the military families living in Kingston's suburbs, I want to commend the extraordinary work of Senator Pépin for women and military spouses.

[English]

Honourable senators, this brings me to Bill S-43. Civility in a society is about order. My bias as a Tory informs my understanding of this bill. Random acts of terror against any civilian population in any country in the British Isles, Southeast Asia, Oklahoma, the Middle East, Spain, or in the subways of London, is an act against the order and civility that defines a

society of freedom and opportunity. Destroy public confidence, destroy a sense of security or destroy a parent's belief that their teenagers can be safe in a cafe with other friends, and you begin to destroy the trust and faith that is essential to life.

Senator Grafstein explained in great detail Canada's formal support for the resolution on suicide bombing passed by the Parliamentary Assembly of the Organization for Security and Cooperation in Europe. To sign that agreement and not proceed to strengthen our Criminal Code with explicit interdiction for purposes of clarity against suicide bombing would be simply hypocritical.

Honourable senators, I make the case in support of S-43 because the Criminal Code is not a narrow blueprint for police and prosecutorial convenience, although it does describe the interdictions they must enforce. As the most coercive of our laws, it must also reflect our will as a nation and as a community to be clear and faithful to resolutions we have passed and signed internationally. The Criminal Code must interdict by specific reference for purposes of clarity those specific activities that it seeks to prevent, especially if those activities and certain subcultures are exalted by those who would terrorize civilian populations in a last-ditch personal initiative against those they oppose. Canada and Canadians must ensure that the Criminal Code — the spinal cord of "peace, order and good government" keeps pace with new instruments of terror in terms of definition and specific clarity.

We express what we are for by specifying what we are against, specifically and precisely. To those who argue that specific definition is superfluous, I respond that catch-all generalities and lack of clarity do not serve the interest of enforcement, the presumption of innocence or the capacity for oversight. Innocent defendants are protected by more specific references in the code, as are those seeking to prevent conspiracies to commit specific crimes.

Adding this specific definition of "suicide bombing" for greater clarity is not about prosecuting the bomber after the illegal act and inhuman deed has happened. It is crystal clear that giving the police and other law enforcement agencies the ability to pursue in a preventive way individuals who are involved in conspiracies related to potential suicide bombings abroad or at home, actually adds another arrow to the quiver of those trying to keep our society safe. We have a safe society because this chamber, as an integral part of the Parliament of Canada, has enacted legislation, which it regularly updates with amendments, in respect of the Criminal Code, with which police are guided in their enforcement and preventive activities. It forms the basis of lawful prosecutions within our open judicial system.

Honourable senators, it is a dangerous mistake to assume that, because some may believe that suicide bombing is implied in other sections of the Code, that that is sufficient. It is not specified for purposes of clarity. In a society that is governed by explicit and clear laws, specificity for clarity with respect to suicide bombing strengthens the law; it strengthens the memoranda of enforcement which from time to time are sent to the police by justice authorities; and it strengthens the clarity of the mission of those whose duty it is to enforce the Criminal Code.

Being subject to the Criminal Code is being subject to the full protection of the Charter of Rights and Freedoms in the Constitution of Canada. I note the excellent work being done by Senator Fairbairn and her colleagues on the Special Committee on the Anti-terrorist Act.

I am delighted to commend this Criminal Code amendment to all honourable senators for their positive consideration and support. It would be a helpful part of the infrastructure of civility that the Criminal Code was developed to protect. We need only look around the globe to reflect on why we want the horror of suicide bombing to be kept from our shores and why we want Canadian authorities to have all the tools they need to help prevent suicide bombing at home and abroad. We must give our police and those who work with them every tool to do the job.

I am delighted to express the support on our side for Senator Grafstein's bill. I congratulate the honourable senator on this initiative. I hope that this can be a bipartisan matter in this chamber and, perhaps, in the other place. Honourable senators, thank you for your patience and indulgence.

On motion of Senator Eggleton, debate adjourned.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO STUDY STATE OF PREPAREDNESS FOR A PANDEMIC

On the Order:

Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator LeBreton:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the state of preparedness for a pandemic on the part of the Canadian Government and in particular on measures that Canadians and Canadian businesses and organizations can take to prepare for a pandemic; and

That the Committee submit its report no later than December 8, 2005.—(Honourable Senator Rompkey, P.C.)

Motion agreed to.

• (1640)

[Translation]

THE SENATE

MOTION TO STRIKE SPECIAL COMMITTEE ON GAP BETWEEN REGIONAL AND URBAN CANADA— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Poulin, seconded by the Honourable Senator Poy,

That a Special Committee of the Senate be appointed to examine the growing gap between regional and urban Canada;

That research be gathered to consolidate and update current facts and figures regarding this gap;

That testimony be heard to provide an overview of the challenges facing regional areas in several socio-economic areas as transportation, communications, employment, the environment;

That this special committee be authorized to hear testimony in Ottawa and in regions;

That this Special committee be comprised of five members, and that three members constitute a quorum; and that two members be sufficient for the purposes of hearing witnesses;

That the committee be authorized to send for persons, papers and records, whenever required, and to print from day to day such papers and evidence as may be ordered by it;

That, pursuant to rule 95(3), the committee be authorized to meet even though the Senate may then be adjourned;

That the committee be authorized to permit coverage by electronic media of its public proceedings, with the least possible disruption of the hearings;

That the committee submit its final report no later than June 30, 2006, and that the committee retain all powers necessary to publicize its findings until September 30, 2006;

That the committee be permitted, notwithstanding usual practices, to deposit its reports with the Clerk of the Senate if the Senate is not then sitting, and that any report so deposited be deemed to have been tabled in the Chamber.—(Honourable Senator Stratton)

Hon. Fernand Robichaud: Honourable senators, this item stands at day 15 on the Order Paper, and Senator Callbeck has asked me to adjourn the debate in her name so that she may speak to this motion at a later date. Therefore, I move that the debate be now adjourned in the name of Senator Callbeck.

On motion of Senator Robichaud, for Senator Callbeck, debate adjourned.

[English]

EFFICACY OF GOVERNMENT IN IMPLEMENTING KYOTO PROTOCOL

INQUIRY—DEBATE ADJOURNED

Hon, A. Raynell Andreychuk rose pursuant to notice of April 21, 2005:

That she will call the attention of the Senate to the failure of the government to address the issue of climate change in a meaningful, effective and timely way and, in particular, to the lack of early government action to attempt to reach the targets set in the Kyoto Protocol.

She said: Honourable senators, I am pleased to speak today to the inquiry with respect to the Liberal government's Kyoto plan.

As you know, the Kyoto Protocol is an agreement that was negotiated by more than 160 countries in December, 1997 in Kyoto, Japan. The goal of the agreement was for the industrialized countries to reduce their collective emissions of greenhouse gases by 5.2 per cent below 1990 levels by the period 2008-2012. The target we set for ourselves was to reduce our greenhouse gas emissions to an average of roughly 5 per cent below our 1990 levels.

The reduction of greenhouse gas emissions is not a new topic. It goes back to at least 1972, to the first UN Conference on the Human Environment, which raised awareness of the global environment and led to the establishment of the UN Environment Program, of which Canada's Maurice Strong was the first director. I was pleased to serve as permanent representative from Canada for several years.

It was during the 1990s when the world really woke up to the need to consider our environment. Canada was a big part of that awakening.

In 1987, the Montreal Protocol on Substances that Deplete the Ozone Layer was signed by more than 40 countries. That protocol focussed on cutting emissions of CFCs by 50 per cent by 1999.

Also in 1987, Prime Minister Brian Mulroney met with Norway's Prime Minister Gro Harland Bruntland to officially accept the World Commission on Environment and Development report. That report called *Our Common Future* brought the expression "sustainable development" into our world.

Prime Minister Brian Mulroney ran with that report, creating sustainable development institutions such as the National Round Table on the Environment and Economy, and the International Institute for Sustainable Development. He was behind the creation of the Canadian Centre for Climate Modelling and Analysis, later located at the University of Victoria. He also appointed Canada's first environment minister.

In 1990, again under the leadership of Prime Minister Brian Mulroney, we tabled the Green Plan, which was to be a \$5-billion fund over five years to be renewed indefinitely.

Those of us who were involved in the Rio Earth Summit or the lead up to it in 1992 remember those years and that commitment. This gathering of 178 nations resulted in the Framework Convention on Climate Change, an international agreement to reduce the emissions of gases — namely, carbon dioxide and methane — associated with global warming. It was the only global attempt to address climate change. No explicit targets were set, but there was an overall understanding that emissions should be reduced to 1990 levels by the year 2000. We set this as our official domestic target.

It was contemplated that active negotiations internationally would begin immediately, as well as an awareness program. Negotiations and development were also part of the Canadian plan. Unfortunately, very little was undertaken.

The binding agreement came in 1997, in Kyoto, Japan, at the third follow-up meeting of the nations that signed the convention. At this meeting, the Government of Canada agreed to the Kyoto Protocol in which we would reduce average greenhouse emissions in industrial countries to just over 5 per cent below 1990 levels between 2008 and 2012, the first commitment period. Two conditions were attached to this agreement. First, at least 55 parties to the convention had to ratify the protocol. Second, the industrialized countries and countries making the transition to a market economy that ratified the protocol had to be responsible for at least 55 per cent of the emissions.

Those two conditions were met a year ago when Russia ratified the protocol. As per the 1997 agreement, in February 2005, the Kyoto Protocol became international law.

Honourable senators, all of this is to say that we have known for years before, and since 1997 we have known legally, that we had the job of bringing our greenhouse gas emissions down to roughly 5 per cent below the 1990 levels. We have all been aware since the Rio Earth Summit in 1992 that we were going to attempt to reduce emissions to 1990 levels by the year 2000. When we actually set that target, there should have been a plan that was well worked out, well understood by Canadian citizens and well accepted by federal and provincial authorities, as well as businesses in Canada.

Instead of dealing with the issue of bringing down greenhouse gas emissions in the 1990s, when it was still conceivably a manageable task, this government chose to wait until this year, eight years after the original Kyoto Protocol, to come up with a concrete plan.

To this day, I do not understand why the government waited. We had a green plan, a good kick-start, in 1990. We knew in 1992, just when this country was gearing up for an election, that the world was focussing on greenhouse gas emissions. By 1997, we had a binding agreement; yet this government let greenhouse gas emissions increase. From 1995 to 1999, they went from 9 per cent to 15 per cent above 1990 levels.

To be fair, the government did do their homework, generating a great deal of literature indicating where they were intending to go; but they never went there. They never took the steps that would lead to real action.

• (1650)

Even the Commissioner of the Environment and Sustainable Development, Johanne Gélinas, back in her 1998 audit, pointed to the poor planning and ineffective management that resulted in Canada failing to meet its climate change commitments. In her 2001 audit, four years before the Kyoto plan was released, she again raised the alarm that Canada could not meet its Kyoto targets. In fact, in her report this year, released September 29, 2005, she states:

When it comes to protecting the environment, bold announcements are made and then often forgotten as soon as the confetti hits the ground. The federal government seems to have trouble crossing the finish line.

Others have also been critical of Canada's inaction on this matter. At the recent COP10 meeting in Buenos Aires, Canada was pointed to as one of the worst offenders for non-compliance. The OECD has put us in last place of the 24 countries they evaluated regarding environmental integrity. According to the Conference Board of Canada, Canada has slipped from twelfth place, in 2002, to sixteenth place, in 2003, in a rating of relative performance of the 23 OECD nations on a range of environmental issues. Even the current Prime Minister criticized how slow we were moving when he told a Toronto town hall meeting on September 29, 2003:

I think if you're going to bring in something like Kyoto, which is going to provide a huge national cooperation, you owe it to Canadians to lay the plan in front of them, so Canadians know what is being asked of them. Unfortunately, we ratified Kyoto without that plan in place, and since then we have not heard a great deal about the plan.

It would have been, I think, fortunate for Canadians, had the Prime Minister followed through on his words.

Close to eight years after the Kyoto Protocol, this Liberal government finally gave us their plan. It has been almost universally criticized. Even some of the environmentalists have given it only grudging support. Here are a few examples.

Tom Adams, Executive Director of Energy Probe, a national energy and environment watchdog, said in the *Calgary Herald* that the coast-to-coast transmission grid "poses risks to Canadians in terms of delivering reliable service...It is 'grossly unfair' because it would cost taxpayers tens of billions in tax dollars to benefit mostly Ontario." Hence, in my opinion, not a national plan.

Thomas d'Aquino, President of the Canadian Council of Chief Executives, said in the *National Post*, that the Kyoto plan will impose "huge costs on taxpayers and will fail to meet its goals."

Matthew Bramley of the Pembina Institute, an environmental policy research organization, told the CBC:

Taxpayers are going to take on a stiff burden of costs to find emission reductions for Kyoto, while industry is really going to be asked to make overall what represents an economically insignificant contribution.

Nancy Hughes Anthony, President and CEO of the Canadian Chamber of Commerce, said:

This plan will make it more difficult for business in Canada to compete internationally when other countries do not have such strenuous targets, or have none at all. We are very concerned about the drag that this plan will have on Canada's economy.

Greenpeace criticized the plan when they said that it was "inadequate to achieve Canada's Kyoto emission reduction target within the timeframe required..."

Let us not forget that the government's own Industry Minister, David Emerson, said in *The Toronto Star* that meeting Canada's Kyoto targets could "drive the economy into the tank" and that he was not confident that the Liberals would be in a position to deliver on a "balanced" Kyoto "plan."

Jose A. Kusugak, President of the Inuit Tapiriit Kanatami, wrote in *The Hill Times* about the lack of consultation on the plan, saying:

It wasn't until the eleventh hour, almost as the plan was going to the printers that the Inuit got a chance to be heard.

He went on to say:

Consultations with Inuit must take an important role in Canada's moving forward on climate change. The government plan, and its lack of substantive reference to the Arctic and other vulnerable ecosystems, shows why we need to be a part of the process.

As you know, honourable senators, the Inuit homeland takes up some 40 per cent of our nation's land mass. With its fragile ecosystem, it will absorb the brunt of global warming. It is also the canary in the mine of climate change, the early warning system of indicating what will happen to the rest of us.

Overall, the plan has been criticized for its lack of detail and its reliance on individual Canadians to bear the brunt of reducing greenhouse gases in this country, rather than the large polluters. It also holds the automobile industry to voluntary reductions of their emissions. Here is what Prime Minister Paul Martin said back in 2002, when he told the House of Commons that this was exactly the wrong approach. He said:

...we must reject outright the purchase of hot air credits from abroad. Canadian dollars are better invested in meaningful emissions reduction technologies here in Canada.

On February 8, 2005, in an appearance before the House of Commons Standing Committee on Environment and Sustainable Development, Finance Minister Ralph Goodale, stated:

Some people speculate about the value or, on the other hand, one could say the iniquity of investing in the so-called rush of hot air that has been referred to. Clearly, that kind of international expenditure is not on Canada's agenda.

Apparently, that was a lot of hot air. Industry Minister David Emerson told *The Global and Mail* that to meet the Kyoto target the government would, in fact, buy emissions credits, or hot air credits, from countries that have met and exceeded their climate change targets. The fact is that the abstract notion of trading pollution credits will not clean up brown lands, improve our drinking water or lower the smog count over our cities. It will certainly not help us come up with the real solutions to get us off the carbon-guzzling road we are on now. Clearly, this so-called plan has come up short.

Honourable senators, we need a real plan, not a political document. Canada must have a strong economy as well as clean water, air and land. By making smart choices, we can work toward balancing what seems to be competing interests. That is why I support the Conservative Party of Canada plan, a made-in-Canada plan that I believe will go a long way to solving these problems.

Our priority is controlling pollution in Canada. We cannot control pollution by trading carbon credits with other countries. We can do it as an adjunct but not as a substitute. Once we get our house in order, we can sit down with other countries that are similar to us — for example, the United States — and work out a reasonable arrangement on greenhouse gases.

This approach will take funds now targeted through the Kyoto plan and turn them into real measures to deal with pollution right here in Canada. These funds will go to research and development in this country to develop new ways to lower pollution. They will go to strategies to help bring down air pollutants in our skies. In short, they will go to real solutions for Canadians.

I believe that other worthy comments are within our program. May I have one more minute, with the indulgence of senators?

Hon. Senators: Agreed.

• (1700)

Senator Andreychuk: I believe that one of the real flaws of the Kyoto plan is that, in modern parlance, we have not properly approached international treaty making and implementation. A

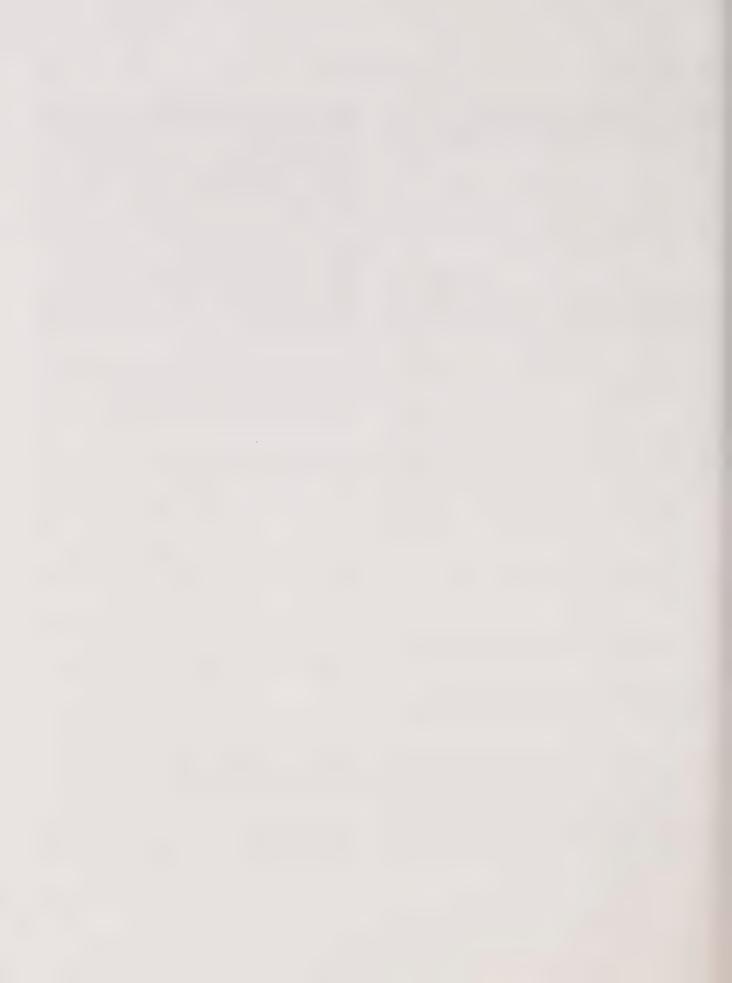
plan that affects the people of Canada. our provinces and industries so directly should have been the result of a modern treaty process where everyone understood the plan before ratification. There should have been a systematic method for the collation and discussion of input to assist the government in its final decision. Important within this process would be an assessment by the government of the impact on the natural environment as well as on political and legal environments. As a result of such an impact assessment, all players would know what was being asked of them and they would have an opportunity to rebut or approve the plan. All players would know that the plan was chosen through a democratic, open and transparent process. With such an education, Canadians would be able to support a government plan.

The way in which Kyoto was ratified led to many of the problems that exist and has divided Canadians rather than unifying them. Environment is on the minds of everyone, particularly at this time when water has become such an issue. We should find working arrangements that bring us together rather than tearing us apart.

I welcome further debate on the Kyoto Protocol, further interest in developing a new treaty-making process and, above all, real moves to change our environmental problems.

On motion of Senator Rompkey, for Senator McCoy, debate adjourned.

The Senate adjourned until Wednesday, November 2, 2005, at 1:30 p.m.



APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

THE SPEAKER

The Honourable Daniel Hays

THE LEADER OF THE GOVERNMENT

The Honourable Jack Austin, P.C.

THE LEADER OF THE OPPOSITION

The Honourable Noël A. Kinsella

OFFICERS OF THE SENATE

CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS

Paul Bélisle

DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES

Gary O'Brien

LAW CLERK AND PARLIAMENTARY COUNSEL

Mark Audcent

USHER OF THE BLACK ROD

Terrance J. Christopher

THE MINISTRY

According to Precedence

(November 1, 2005)

The Right Hon. Paul Martin The Hon. Jacob Austin The Hon. Jean-C. Lapierre The Hon. Ralph E. Goodale The Hon, Anne McLellan

The Hon. Lucienne Robillard

The Hon. Stéphane Dion The Hon. Pierre Stewart Pettigrew The Hon. Andy Scott

The Hon. James Scott Peterson The Hon. Andrew Mitchell

The Hon. William Graham The Hon. Albina Guarnieri The Hon. Reginald B. Alcock

The Hon. Geoff Regan The Hon. Tony Valeri The Hon. M. Aileen Carroll The Hon. Irwin Cotler The Hon. Ruben John Efford The Hon. Liza Frulla

The Hon. Giuseppe (Joseph) Volpe The Hon. Joseph Frank Fontana The Hon. Scott Brison The Hon. Ujjal Dosanjh The Hon. Ken Dryden The Hon. David Emerson The Hon. Belinda Stronach

The Hon. Ethel Blondin-Andrew The Hon. Raymond Chan The Hon. Claudette Bradshaw The Hon. John McCallum The Hon. Stephen Owen

> The Hon. Joseph McGuire The Hon. Mauril Bélanger

> The Hon. Carolyn Bennett The Hon. Jacques Saada

The Hon. John Ferguson Godfrey The Hon. Tony Ianno Prime Minister

Leader of the Government in the Senate

Minister of Transport Minister of Finance

Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness

President of the Queen's Privy Council for Canada and

Minister of Intergovernmental Affairs Minister of the Environment

Minister of Foreign Affairs

Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians Minister of International Trade

Minister of Agriculture and Agri-Food and Minister of State (Federal Economic Development Initiative for Northern Ontario)

Minister of National Defence Minister of Veterans Affairs

President of the Treasury Board and Minister responsible

for the Canadian Wheat Board Minister of Fisheries and Oceans

Leader of the Government in the House of Commons

Minister of International Cooperation

Minister of Justice and Attorney General of Canada

Minister of Natural Resources

Minister of Canadian Heritage and Minister responsible for Status of Women

Minister of Citizenship and Immigration

Minister of Labour and Housing

Minister of Public Works and Government Services

Minister of Health

Minister of Social Development

Minister of Industry

Minister of Human Resources and Skills Development and

Minister responsible for Democratic Renewal Minister of State (Northern Development)

Minister of State (Multiculturalism)

Minister of State (Human Resources Development)

Minister of National Revenue

Minister of Western Economic Diversification and

Minister of State (Sport)

Minister of the Atlantic Canada Opportunities Agency Minister for Internal Trade, Deputy Leader of the Government in the House of Commons, Minister responsible for Official Languages and Associate Minister of National Defence

Minister of State (Public Health)

Minister of the Economic Development Agency of Canada for the Regions of Quebec and Minister responsible for La Francophonie

Minister of State (Infrastructure and Communities) Minister of State (Families and Caregivers)

SENATORS OF CANADA

ACCORDING TO SENIORITY

(November 1, 2005)

Senator	Designation	Post Office Address
The Honourable		
Jack Austin, P.C.	. Vancouver South	Vancouver, B.C.
	Nunavut	
	Pakenham	
	. Harbour Main-Bell Island	
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
	Ottawa-Vanier	
	South Shore	
	Metro Toronto.	
	Toronto Centre-York	
Charlie Watt	Inkerman	Kunimag Oue
Daniel Hays Sneaker	Calgary	Calgary Alta
Iovce Fairbairn P.C.	Lethbridge	Lethbridge Alta
	Rideau	
Pierre De Rané P.C	De la Vallière	Montreal Que
	Grand-Sault	
Norman K Atkins	. Markham	Toronto Ont
Fthel Cochrane	Newfoundland and Labrador	Port-au-Port Nfld & Lab
	Manitoba	
	British Columbia	
Gerald I Comean	Nova Scotia	Saulnierville N.S.
	Ontario	
	Nova Scotia.	
Noël A Kinsella	Fredericton-York-Sunbury	Fredericton N B
John Buchanan P.C.	Nova Scotia	Halifax N.S
	Ontario	
	Ottawa	
	St. Marys	
I Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth N S
	. Winnipeg-Interlake	
	Regina	
Jean-Claude Rivest	Stadacona	Quebec Que
	Red River	
Marcel Prud'homme, P.C	. La Salle	Montreal, Que.
Leonard J. Gustafson	. Saskatchewan	Macoun, Sask.
David Tkachuk	. Saskatchewan	Saskatoon, Sask.
	. Alma	
	De Salaberry	
Mariory LeBreton	Ontario	Manotick Ont
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon.	De la Durantaye	Laval. Oue.
Sharon Carstairs, P.C.	. Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
	Bedford	
William H. Rompkey, P.C.	North West River, Labrador	North West River, Labrador, Nfld & Lab

Senator	Designation	Post Office Address
Lorna Milna	D. 1.C.	
Maria D. Daulin	Peel County	Brampton, Ont.
Widile-F. Fouliff	Nord de l'Uniario/Northern Ontario	Ottown Ont
Shirley Maneu	Rougemont	Saint-Laurent, Oue.
Willied F. Moole	Stannobe St./Bluenose	Checter NC
Lucie Febin	Shawinegan	Montagal O
Fernand Robichaud, P.C.	New Brunewick	Coint I will 1 IZ . NID
Catherine S. Cambeck	Prince Edward Island	Central Padagua D.E.I
Ivialisa i cilcul Baltii	Kenenjigny	Pierrefonds Oue
Serge Joval, P.C.	Kennebec	Montreal Ove
Joan Cook	Newfoundland and Labrador	Withiteal, Que.
Ross Fitzpatrick	Okanagan-Similkameen.	St. John S, Nild. & Lab.
Francis William Mahovlich	Toronto	Kelowna, B.C.
Joan Thorne Freser	De Lorimier	Toronto, Ont.
Aurálian Gill	W-11:	Montreal, Que.
Vivianna Day	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
VIVICIING FOV	Loronto	Toronto Ont
Tone Christensen	Yukon Territory	Whitehorse V T
George Furey	Newtoundland and Labrador	St John's Nild & Lah
Nick G. Siddeston	Northwest Territories	Fort Simpson N.W.T.
Tommy Banks	Alberta	Edmonton Alta
Jane Cordy	Nova Scotia	Dartmouth N.C.
Elizabeth M. Hubley	Prince Edward Island	Kensington P.F.I
Mobina S. B. Jaffer	British Columbia	North Vancouver B.C.
Jean Lapointe	Saurel	Magag Oue
Gerard A. Phalen	Nova Scotia	Class Bay M.C.
Joseph A Day	Saint John-Kennebecasis	Glace Bay, N.S.
Michel Riron	Mille Isles	Hampton, N.B.
George & Raker P.C	Navyfoundland and Yahard	Nicolet, Que.
Daymond Laviana	Newfoundland and Labrador	Gander, Nild. & Lab.
David D. Smith D.C.	Montarville	Verdun, Que.
Maria Chanut	Cobourg	Toronto, Ont.
Wana Chaput	Manitoba	Sainte-Anne, Man.
Pana Merchant	Saskatchewan	Regina, Sask.
Pierrette Kinguette	New Brunswick	Edmundston, N.B.
Percy Downe	Charlottetown	Charlottetown, P.E.I.
Paul J. Massicotte	De Lanaudière	Mont-Saint-Hilaire One
Mac Hard	Ontario	Ottawa Ont
Madeleine Plamondon	The Laurentides	Shawinigan Que
Marilyn Trenholme Counsell	New Brunswick	Sackville N R
Terry M. Mercer	Northend Halifax	Caribou River N.S.
Iim Munson	Ottawa/Rideau Canal	Ottawa Ont
Claudette Tardif	Alberta	Edmonton Alta
Grant Mitchell	Alberta	Edmonton, Alta
Elaine McCov	Alberta	Colcomi Alta
Robert W Peterson	Saskatchewan.	Caigary, Aita.
Lillian Eva Dyck	Saskatchewan	Regina, Sask.
Art Eggleton D.C.	Saskatchewan	Saskatoon, Sask.
Manay Duth	Ontario	Toronto, Ont.
Damás Antonius Dallains	Cluny	Toronto, Ont.
Komeo Antonius Dallaire	Gulf	Sainte-Foy, Que.
names S. Cowan	Nova Scotia	Halifax, N.S.
Andree Champagne, P.C.	Grandville	Saint-Hyacinthe, Que.
Hugh Segal	Kingston-Frontenac-Leeds	Kingston, Ont.
Larry W. Campbell	British Columbia	Vancouver, B.C.
Rod A.A. Zimmer	Manitoba	Winnipeg, Man.
Dennis Dawson	Lauzon	Sainte-Foy, One
Yoine Goldstein	Rigaud	Montreal Que
Francis Fox, P.C	Victoria	Montreal Que
Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations N.R.
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SENATORS OF CANADA

ALPHABETICAL LIST

(November 1, 2005)

THE HONOURABLE Adams, Willie Nunavut Rankin Inlet, Nunavut Liberal Andreychuk, A. Raynell Regina Regina, Sask. Conservative Angus, W. David Alma Montreal, Que. Conservative Atkins, Norman K. Markham Toronto, Ont. Progressive Conse Austin, Jack, P.C. Vancouver South Vancouver, B.C. Liberal Bacon, Lise De la Durantaye Laval, Que. Liberal Baker, George S., P.C. Newfoundland and Labrador Gander, Nfld. & Lab. Liberal Banks, Tommy. Alberta Edmonton, Alta Liberal Biron, Michel Mille Isles Nicolet, Que. Liberal Bryden, John G. New Brunswick Bayfield, N.B. Liberal	
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Biron, Michel Mille Isles Nicolet, Que Liberal Bryden, John G. New Brunswick Bayfield, N.B. Liberal	
Bryden, John G New Brunswick Bayfield, N.B Liberal	
Buchanan, John, P.C	
Callbeck, Catherine S Prince Edward Island Central Bedeque, P.E.I Liberal	
Campbell, Larry W British Columbia Vancouver, B.C Liberal	
Carney, Pat, P.C British Columbia Vancouver, B.C	
Carstairs, Sharon, P.C. Manitoba Victoria Beach, Man. Liberal Champagne, Andrée, P.C. Grandville Saint-Hyacinthe, Que Conservative	
Chaput, Maria	
Cochrane, Ethel Newfoundland and Labrador Port-au-Port, Nfld. & Lab Conservative	
Comeau, Gerald J Nova Scotia	
Cook, Joan	
Cools, Anne C	
Corbin, Eymard Georges Grand-Sault	
Cordy, Jane Nova Scotia Dartmouth, N.S. Liberal	
Cowan, James S Nova Scotia	
Dallaire, Roméo Antonius, Gulf	
Dawson, Dennis Lauzon Ste-Foy, Que Liberal	
Day, Joseph A Saint John-Kennebecasis Liberal	
De Bané, Pierre, P.C De la Vallière	
Di Nino, Consiglio Ontario Downsview, Ont Conservative	
Doody, C. William	rvative
Downe, Percy	
Dyck, Lillian Eva Saskatchewan Saskatoon, Sask New Democrat	
Eggleton, Art, P.C Ontario Toronto, Ont Liberal	
Eyton, J. TrevorOntario	
Fairbairn, Joyce, P.C Lethbridge Lethbridge, Alta Liberal	
Ferretti Barth, MarisaRepentignyPierrefonds, QueLiberal	
Fitzpatrick, Ross Okanagan-Similkameen Kelowna, B.C. Liberal Forrestall, J. Michael Dartmouth and the Eastern Shore Dartmouth, N.S Conservative	
Forrestall, J. Michael Dartmouth and the Eastern Shore Dartmouth, N.S Conservative	
Fox, Francis, P.C Victoria Montreal, Que Liberal	
Fraser, Joan Thorne De Lorimier Montreal, Que Liberal	
Furey, George Newfoundland and Labrador St. John's, Nfld. & Lab Liberal	
Gill, Aurélien	
Goldstein, Yoine Rigaud Montreal, Que Liberal Grafstein, Jerahmiel S Metro Toronto Toronto, Ont Liberal	
Gustafson Leonard J Saskatchewan	
Gustatson Leonard J. Saskatchewan Macoun, Sask. Conservative	
Harb, Mac Ontario Liberal Hays, Daniel, Speaker	
Harvigus Payette Cálgary Radfard Martrel Oug Libert	
Hervieux-Payette, Céline, P.C. Bedford Montreal, Que. Liberal Hubley, Elizabeth M. Prince Edward Island Kensington, P.E.I. Liberal	
Jaffer, Mobina S. B British Columbia North Vancouver, B.C Liberal	
Liberal Common C	

Senator	Designation	Post Office Address	Political Affiliation
Johnson Touli C	YY7' ' Y		
Johnson, Janis G	Winnipeg-Interlake	. Gimli, Man	. Conservative
Joyal, Berge, F.C	, Kennepec	Montreal One	T. Hannel
Kenny, Conn	Kideaii	Ottawa Ont	T 111
Keon, Wildert Joseph	Ottawa	Ottawa Ont	Campania !
Milistria, INUCI A	Fredericion- y ork-Sunnury	Fredericton N D	
Kirby, Michael	. South Shore	Halifax N C	T. Hannal
Lapointe, Jean	Saurel	Magog Oue	T. Hannat
Lavigne, Kaymond	Montarville	Verdun Que	T. Hannal
Lebreton, Mariory	Ontario	Manotick Ont	Camananati
Losier-Cool, Rose-Marie	I racadie	Rathurst N R	T. Hannat
Lovelace Nicholas, Sandra	New Brunswick	Tobique First Nations N. P.	Y ibout
Maneu, Sniriey	Rougemont	Saint-Laurent Oue	Liboral
Manoviich, Francis William	Loronto	Toronto Ont	T. Hannat
Massicotte, Paul J	. De Lanaudière	Mont-Saint-Hilaire Oue	Liberal
McCov. Elaine	Alberta	Calgary Alta	Decomposition Comment
Meighen, Michael Arthur	. St. Marvs	Toronto Ont	Canaamiatina
Mercer, Terry IVI.	. Northend Halifax	Caribon River N.S.	T. ibanal
Merchant, Pana	Saskatchewan	Regina, Sask.	. Liberal
Milne, Lorna	Peel County	Brampton, Ont.	Liberal
Mitchell, Grant	Alberta	Edmonton, Alta.	Liberal
Moore Wilfred P	Stanhone St /Bluenose	Chester, N.S.	. Liberal
Munson, Jim	Ottawa/Pidagu Canal	Ottoma Out	. Liberal
Murray Lowell P.C	Dokonhom	Ottawa, Ont.	. Liberal
Nancy Ruth	Char	Ottawa, Ont.	. Progressive Conservative
Nolin Pierre Claude	Do Solohamm	Toronto, Ont.	. Progressive Conservative
Oliver Donald H	Nove Seetie	Quebec, Que.	. Conservative
Dearson Landon	Ontari-	Halifax, N.S.	. Conservative
Dámin Turia	. Ontario	Ottawa, Ontario	. Liberal
Potagon Dahart W	Snawinegan	Montreal, Que.	. Liberal
Peterson, Robert W	Saskatchewan	Regina, Sask	. Liberal
rnaien, Gerard A	. Nova Scotia	Glace Ray N S	Liborol
Pittield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	. Independent
riamondon, Madeleine	. The Laurentides	Shawinigan Que	Independent
roulin, Marie-P	. Nord de l'Ontario/Northern Ontario	Ottawa Ont	Liberal
Poy, Vivienne	. Toronto	Toronto Ont	Liberal
rud nomme, Marcel, P.C.	La Salle	Montreal One	Independent
Kinguette, Pierrette	New Brunswick	Edmundston N R	Liberal
Rivest, Jean-Claude	. Stadacona	Quehec Que	Independent
Robichaud, Fernand, P.C	New Brunswick	Saint-Louis-de-Kent N B	Liberal
Kompkey, William H., P.C.	North West River, Labrador	North West River, Labrador Nfld & Lab	Liberal
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Manle Ridge RC	Conservative
segal, Hugh	Kingston-Frontenac-Leeds	Kingston Ont	Conservative
ordesion, Nick G	Northwest Territories	Fort Simpson, N.W.T.	Liberal
smith, David P., P.C	Cobourg	Toronto, Ont.	Liberal
pivak, Mira	Manitoba	Winning Man	Independent
Stollery, Peter Alan	Bloor and Yonge	Toronto Ont	Liberal
Stratton, Terrance R	Red River	St Norhert Man	Conservative
Fardif, Claudette	Alberta	Edmonton, Alta.	Liberal
Fkachuk, David	Saskatchewan	Saskatoon, Sask.	Conservative
Trenholme Counsell, Marilyn	New Brunswick	Sackville, N.B.	Liberal
Watt. Charlie	Inkerman	Kuujjuaq, Que.	Liberal
Zimmer, Rod A A	Manitoha	Winnipeg, Man	Liberal
		winnipeg, wan	Liberal

SENATORS OF CANADA

BY PROVINCE AND TERRITORY

(November 1, 2005)

ONTARIO—24

	Senator	Designation	Post Office Address
	The Honourable		
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 22 24	Peter Michael Pitfield, P.C. Jerahmiel S. Grafstein Anne C. Cools Colin Kenny Norman K. Atkins Consiglio Di Nino John Trevor Eyton Wilbert Joseph Keon Michael Arthur Meighen Marjory LeBreton Landon Pearson Lorna Milne Marie-P. Poulin Francis William Mahovlich Vivienne Poy David P. Smith, P.C. Mac Harb Jim Munson Art Eggleton, P.C. Nancy Ruth Hugh Segal	Bloor and Yonge Ottawa-Vanier Metro Toronto Toronto Centre-York Rideau Markham Ontario Ottawa St. Marys Ontario Ontario Peel County Northern Ontario Toronto Toronto Cobourg Ontario Ottawa/Rideau Canal Ottario Ottawa/Rideau Canal Ottario	Toronto Ottawa Toronto Toronto Ottawa Toronto Ottawa Toronto Downsview Caledon Ottawa Toronto Manotick Ottawa Brampton Ottawa Toronto Toronto Toronto Ottawa Toronto Toronto Toronto Ottawa Toronto Toronto Toronto Ottawa Toronto Toronto Ottawa Toronto Toronto Toronto

SENATORS BY PROVINCE AND TERRITORY

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	Senator	Designation	Post Office Address
	The Honourable		
3 4 4 5 6 7 9 10 11 12 13 14 15	Jean-Claude Rivest Marcel Prud'homme, P.C W. David Angus Pierre Claude Nolin Lise Bacon Céline Hervieux-Payette, P.C. Shirley Maheu Lucie Pépin Marisa Ferretti Barth Serge Joyal, P.C. Joan Thorne Fraser Aurélien Gill Jean Lapointe Michel Biron Raymond Lavigne Paul J. Massicotte Madeleine Plamondon Roméo Antonius Dallaire Andrée Champagne, P.C.	Stadacona La Salle Alma De Salaberry De la Durantaye Bedford Rougemont Shawinegan Repentigny Kennebec De Lorimier Wellington Saurel Milles Isles Montarville De Lanaudière The Laurentides Gulf Grandville	Montreal Quebec Montreal Montreal Quebec Laval Montreal Ville de Saint-Laurent Montreal Pierrefonds Montreal Montreal Montreal Montreal Montreal Montreal Mashteuiatsh, Pointe-Bleue Magog Nicolet Verdun Mont-Saint-Hilaire Shawinigan Sainte-Foy Saint-Hyacinthe
23 24	Yoine Goldstein Francis Fox, P.C.	Lauzon	Montreal

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NOVA SCOTIA-10

Senator	Designation	Post Office Address
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	NEW BRUNSWICK—10	
Senator	Designation	Post Office Address
THE HONOURAB	BLE	
2 Noël A. Kinsella	Grand-Sault Fredericton-York-Sunbury New Brunswick Tracadie Saint-Louis-de-Kent Saint John-Kennebecasis, New Brunswick New Brunswick New Brunswick New Brunswick New Brunswick	 Fredericton Bayfield Bathurst Saint-Louis-de-Kent K Hampton Edmundston Sackville Tobique First Nations
	PRINCE EDWARD ISLAND—4	

1 Catherine S. Callbeck Prince Edward Island Central Bedeque
2 Elizabeth M. Hubley Prince Edward Island Kensington
3 Percy Downe Charlottetown Charlottetown

THE HONOURABLE

Senator

Senator

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MANITOBA-6

Senator	Designation	Post Office Address
THE HONOURABLE		
4 Sharon Carstairs, P.C	Manitoba Winnipeg-Interlake Red River Manitoba Manitoba Manitoba Manitoba	St. Norbert Victoria Beach

BRITISH COLUMBIA—6

Post Office Address

Post Office Address

	THE HONOURABLE		
3 4 5	Jack Austin, P.C. Pat Carney, P.C. Gerry St. Germain, P.C. Ross Fitzpatrick Mobina S.B. Jaffer Larry W. Campbell	British Columbia Langley-Pemberton-Whistler Okanagan-Similkameen British Columbia	Vancouver Maple Ridge Kelowna North Vancouver

Designation

SASKATCHEWAN-6

The Honourable	-	
1 A. Raynell Andreychuk 2 Leonard J. Gustafson 3 David Tkachuk 4 Pana Merchant	Saskatchewan	Macoun Saskatoon
5 Robert W. Peterson	Saskatchewan	Regina

Designation

ALBERTA—6

	Senator	Designation	Post Office Address
	THE HONOURABLE		
3 4 5	Daniel Hays, Speaker Joyce Fairbairn, P.C. Tommy Banks Claudette Tardif Grant Mitchell Elaine McCoy	Lethbridge Alberta Alberta Alberta	Lethbridge Edmonton Edmonton Edmonton

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND AND LABRADOR—6

Senator	Designation	Post Office Address
The Honourabli	E	
2 Ethel Cochrane3 William H. Rompkey, P.C.4 Joan Cook5 George Furey		Port-au-Port North West River, Labrador St. John's St. John's
6 George S. Baker, P.C	Newfoundland and Labrador	Gander
	NORTHWEST TERRITORI	ES—1
Senator	Designation	Post Office Address
The Honourabl	E	
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson
	NUNAVUT—1	
Senator	Designation	Post Office Address
The Honourabl	E	
1 Willie Adams	Nunavut	Rankin Inlet
	YUKON TERRITORY-	-1
Senator	Designation	Post Office Address
THE HONOURABL	E	
A ALD A A DI TO DE TITLE DE		

ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of November 1, 2005)

*Ex Officio Member

ABORIGINAL PEOPLES

Chair: Honourable Senator Sibbeston

Deputy Chair: Honourable Senator St. Germain

Honourable Senators:

Angus,

Austin, (or Rompkey)

Buchanan, Campbell,

Christensen.

Gustafson, * Kinsella,

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Lovelace Nicholas,

Léger,

Pearson, Peterson. Sibbeston,

St. Germain,

Watt, Zimmer.

Original Members as nominated by the Committee of Selection

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Callbeck, Gill.

Gustafson, Hubley,

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Mercer.

Mitchell. Oliver,

Peterson,

Tkachuk.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Callbeck, Fairbairn, Gustafson, Harb, Hubley, Kelleher, *Kinsella (or Stratton), Mahovlich, Mercer, Oliver, Ringuette, Sparrow, Tkachuk.

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Deputy Chair: Honourable Senator Angus

Honourable Senators:

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Fitzpatrick,

Grafstein,

Harb, Hervieux-Payette, * Kinsella.

(or Stratton) Massicotte, Meighen,

Moore,

Oliver, Plamondon.

Tkachuk.

Original Members as nominated by the Committee of Selection

Angus, *Austin, (or Rompkey), Biron, Fitzpatrick, Grafstein, Harb, Hervieux-Payette, Kelleher, *Kinsella (or Stratton), Massicotte, Meighen, Moore, Plamondon, Tkachuk.

CONFLICT OF INTEREST FOR SENATORS

Chair: Honourable Senator Joyal

Deputy Chair: Honourable Senator Andreychuk

Honourable Senators:

Andreychuk Angus,

* Austin,

(or Rompkey)

Carstairs,

Joyal,

* Kinsella,

(or Stratton) Robichaud.

Original Members as nominated by the Committee of Selection

Andreychuk, Angus *Austin, (or Rompkey) Carstairs, Joyal, *Kinsella (or Stratton), Robichaud.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

Chair: Honourable Senator Banks

Deputy Chair: Honourable Senator Cochrane

Honourable Senators:

Adams.

Angus,

* Austin, (or Rompkey) Banks,

Buchanan, Christensen,

Cochrane,

Gustafson,

Kenny, * Kinsella,

(or Stratton)

Lavigne, Milne, Spivak,

Tardif.

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Adams.

* Austin, (or Rompkey) Comeau, Cowan,

Hubley.

Johnson,

* Kinsella

(or Stratton) Mahovlich,

Meighen,

Merchant,

Phalen,

St. Germain,

Watt.

Original Members as nominated by the Committee of Selection

Adams, *Austin, (or Rompkey), Bryden, Comeau, Cook, Fitzpatrick, Hubley, Johnson, *Kinsella (or Stratton), Mahovlich, Meighen, Phalen, St. Germain, Watt.

FOREIGN AFFAIRS

Chair: Honourable Senator Stollery

Deputy Chair: Honourable Senator Di Nino

Honourable Senators:

Andreychuk,
Austin,
(or Rompkey)

Carney,

Corbin,
De Bané,
Di Nino,
Downe,

Grafstein,

* Kinsella,
(or Stratton)
Mahovlich,

Prud'homme, Robichaud, Segal, Stollery.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin, (or Rompkey), Carney, Corbin, De Bané, Di Nino, Downe, Eyton, Grafstein, *Kinsella (or Stratton), Poy, Prud'homme, Robichaud, Stollery.

HUMAN RIGHTS

Chair: Honourable Senator Andreychuk

Deputy Chair: Honourable Senator Pearson

Honourable Senators:

Andreychuk,
Austin,
(or Rompkey)

Baker, Carstairs, Ferretti Barth, Kinsella, (or Stratton) LeBreton, Losier-Cool, Oliver, Pearson, Poy.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin (or Rompkey), Carstairs, Ferretti Barth, *Kinsella (or Stratton), LaPierre, LeBreton, Oliver, Pearson, Poulin, Poy.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Furey

Deputy Chair: Honourable Senator Nolin

Honourable Senators:

Austin, (or Rompkey) Comeau, Cook, Day, De Bané, Di Nino, Furey, Jaffer, Kenny, Keon,

* Kinsella,
(or Stratton)
Massicotte,
Nolin,

Phalen,
Poulin,
Smith,
Stratton.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Banks, Cook, Day, De Bané, Di Nino, Furey, Jaffer, Kenny, Keon, *Kinsella (or Stratton), Lynch-Staunton, Massicotte, Nolin, Poulin, Robichaud, Stratton.

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Deputy Chair: Honourable Senator Eyton

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Andreychuk,

Bacon,

* Austin, (or Rompkey) Bryden, Cools.

Eyton, Joyal,

* Kinsella,

(or Stratton)

Milne. Nolin.

Pearson,

Ringuette, Rivest, Sibbeston.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin, (or Rompkey), Bacon, Cools, Eyton, Joyal, *Kinsella (or Stratton), Mercer, Milne, Nolin, Pearson, Ringuette, Rivest, Sibbeston.

LIBRARY OF PARLIAMENT (Joint)

Joint Chair: Honourable Senator Trenholme Counsell

Vice-Chair:

Honourable Senators:

Lapointe, LeBreton, Poy,

Stratton,

Trenholme Counsell.

Original Members agreed to by Motion of the Senate Lapointe, LeBreton, Poy, Stratton, Trenholme Counsell.

NATIONAL FINANCE

Chair: Honourable Senator Oliver

Deputy Chair: Honourable Senator Day

Honourable Senators:

* Austin,

Cools,

(or Rompkey) Biron,

Day,

Downe.

Ferretti Barth, Harb,

* Kinsella.

(or Stratton) Mitchell,

Murray,

Oliver.

Ringuette, Segal,

Stratton.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Biron, Comeau, Cools, Day, Ferretti Barth, Finnerty, Harb, *Kinsella (or Stratton), Mahovlich, Murray, Oliver, Ringuette, Stratton.

NATIONAL SECURITY AND DEFENCE

Chair: Honourable Senator Kenny

Deputy Chair: Honourable Senator Forrestall

Honourable Senators:

Atkins,

Banks,

Austin, (or Rompkey) Cordy,

Day, Forrestall, Kenny, Kinsella,

(or Stratton)

Meighen,

Munson, Nolin.

Original Members as nominated by the Committee of Selection

Atkins, *Austin, (or Rompkey), Banks, Cordy, Day, Forrestall, Kenny, *Kinsella (or Stratton), Lynch Staunton, Meighen, Munson.

VETERANS AFFAIRS

(Subcommittee of National Security and Defence)

Chair: Honourable Senator Meighen

Deputy Chair: Honourable Senator Day

Honourable Senators:

Atkins,

Austin, (or Rompkey)

Day,

Kenny,

Forrestall,

* Kinsella,

(or Stratton)

Meighen.

OFFICIAL LANGUAGES

Chair: Honourable Senator Corbin

Deputy Chair: Honourable Senator Buchanan

Honourable Senators:

Austin,

(or Rompkey)

Buchanan, Chaput, Comeau,

Champagne,

Corbin,

Jaffer,

* Kinsella,

(or Stratton)

Léger,

Murray, Tardif.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Chaput, Comeau, Corbin, Jaffer, *Kinsella (or Stratton), Lavigne, Léger, Meighen, Merchant, St. Germain.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

Chair: Honourable Senator Smith

Deputy Chair:

Honourable Senators:

Andreychuk,

* Austin, (or Rompkey) Cools, Fraser, Furey,

Jaffer,
Johnson,

* Kinsella,

(or Stratton) LeBreton, Losier-Cool, Maheu,

Milne, Robichaud, Smith.

Di Nino,

Joyal,

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin, (or Rompkey), Chaput, Cools, Di Nino, Fraser, Furey, Jaffer, Joyal, *Kinsella (or Stratton), LeBreton, Lynch Staunton, Maheu, Milne, Poulin, Robichaud, Smith.

SCRUTINY OF REGULATIONS (Joint)

Joint Chair: Honourable Bryden

Vice-Chair:

Honourable Senators:

Baker,

Bryden,

Kinsella,

Nolin.

Biron,

Hervieux-Payette,

Moore,

Original Members as agreed to by Motion of the Senate

Baker, Biron, Bryden, Hervieux-Payette, Kelleher, Lynch-Staunton, Moore, Nolin.

SELECTION

Chair: Honourable Senator Losier-Cool

Deputy Chair: Honourable Senator LeBreton

Honourable Senators:

* Austin, (or Rompkey) Bacon, Carstairs, Comeau,

Fairbairn,

* Kinsella,

(or Stratton) LeBreton, Losier-Cool,

Rompkey, Stratton,

Tkachuk.

Original Members agreed to by Motion of the Senate

*Austin, (or Rompkey), Bacon, Carstairs, Comeau, Fairbairn, *Kinsella (or Stratton), LeBreton, Losier-Cool, Rompkey, Stratton, Tkachuk.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

Chair: Honourable Senator Kirby

Deputy Chair: Honourable Senator Keon

Honourable Senators:

Austin, (or Rompkey) Cochrane, Cook, Cordy,

Gill, Keon. * Kinsella. (or Stratton)

Kirby, LeBreton. Pépin,

Champagne,

Callbeck,

Fairbairn,

Trenholme Counsell.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Callbeck, Cochrane, Cook, Cordy, Fairbairn, Gill, Johnson, Keon, *Kinsella (or Stratton), Kirby, LeBreton, Morin, Pépin.

TRANSPORT AND COMMUNICATIONS

Chair: Honourable Senator Fraser

Deputy Chair: Honourable Senator Tkachuk

Honourable Senators:

Austin, (or Rompkey) Carney,

Chaput,

Dawson, Eyton,

Fraser,

Johnson.

* Kinsella,

(or Stratton) Mercer.

Merchant,

Munson. Phalen, Tkachuk.

Original Members as nominated by the Committee of Selection

*Austin, (or Rompkey), Baker, Carney, Eyton, Fraser, Gill, Johnson, *Kinsella (or Stratton), LaPierre, Merchant, Munson, Phalen, Tkachuk, Trenholme Counsell.

THE SPECIAL SENATE COMMITTEE ON THE ANTI-TERRORISM ACT

Chair: Honourable Senator Fairbairn

Deputy Chair: Honourable Senator Andreychuk

Honourable Senators:

Andreychuk, Austin,

(or Rompkey)

Fairbairn. Fraser,

Jaffer.

Joyal,

* Kinsella, (or Stratton) Nolin, Smith.

Day,

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin, P.C (or Rompkey), Day, Fairbairn, Fraser, Harb, Jaffer, Joyal, *Kinsella (or Stratton), Lynch-Staunton.

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CANADA

Debates of the Senate

1st SESSION

38th PARLIAMENT

VOLUME 142

NUMBER 95

OFFICIAL REPORT (HANSARD)

Wednesday, November 2, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193



THE SENATE

Wednesday, November 2, 2005

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would draw to your attention the presence in the gallery of our former colleague the Honourable Viola Léger.

Welcome back. We will see you at the reception later this evening.

SENATORS' STATEMENTS

YEAR OF THE VETERAN

Hon. Jack Austin (Leader of the Government): Honourable senators, we have been privileged throughout this year to have an opportunity to reflect on the contribution of Canadian veterans to our nation, its history and social values. Canadians have participated in all manner of warfare from the early border hostilities that played a crucial role in the delineation of our young country to the catastrophic world wars of the previous century and the peacekeeping and rebuilding efforts that characterize today's overseas operations.

The loss to Canada has been enormous but so, too, the gain. Canadians have fought to protect the most fundamental of human rights around the world, often for the preservation of life itself. This is a contribution of the highest order and a record of which we will always remain proud.

On May 27, 1919, in the House of Commons, Sir Edward Kemp, then Minister of the Overseas Military Forces, reported that of the 420,913 men and women sent overseas in the First World War, 56,314 lost their lives. Both these numbers show the remarkable sacrifice made by Canadians during this period in our history.

Minister Kemp's tribute on this occasion is worth revisiting: He said:

...the Canadian Corps was always to be found where the fighting was most fierce; and by its valour, patience and skill it brought renown to Canada; its record will endure for all time in the history not only of Canada, but of the world.

No less a role was played by the Canadian Forces in World War II in Europe, Africa and Asia, or in Korea six years later.

Let me mention an outstanding Canadian who is representative of all Canadian men and women in war time. As honourable senators will recall, on August 3, 2005, in this Year of the

Veteran, Canada and British Columbia lost a great hero with the death of Ernest Alvia "Smokey" Smith at the age of 91. As a private, Ernest Smith was awarded the Victoria Cross for military valour in recognition of his heroic actions in Italy in 1944. I was honoured to sign the Book of Condolences alongside other Canadians when Ernest Smith's body lay in state here in the Parliament Buildings, a precedent created to recognize both Private Smith and all Canadian heroes.

To recognize the contribution of Canada's Aboriginal community during times of war, the Governor General and Minister of Veterans Affair are currently leading a delegation of over 200 participants on an Aboriginal spiritual journey to Belgium and France. We are pleased that Senator Gill was able to represent the Senate and the Aboriginal community in this historic precedent. We regret that Senator St. Germain was unable to represent us as well, due to a death in his family.

Our nation must always remember the debt we owe our veterans and pass on this legacy to succeeding generations of Canadians so that they will understand the tremendous sacrifice, and equally, the triumph of our struggles in the protection of our common humanity. Thankfully, Parliament has taken a key step in the creation of the splendid Canadian War Museum in Ottawa.

Hon. Michael A. Meighen: Honourable senators, I wish to join in the remarks of the Leader of the Government in the Senate in recognition of the Year of the Veteran. Many milestones of particular importance to Canada's veterans have been marked during this special year. On May 8, the world celebrated the sixtieth anniversary of the Victory in Europe. On August 15 a similar anniversary was observed as we remembered VJ Day and the end of hostilities with Japan.

Among our many veterans who travelled to Holland to attend the VE Day celebrations was Ernest "Smokey" Smith, Canada's last surviving recipient of the Victoria Cross. Smokey Smith was the patron of the Year of the Veteran, and it was my great honour to attend those ceremonies and others in Normandy and Italy in other years with him.

Although Smokey Smith died this summer, his heroism under enemy fire will long be remembered. Just last week, the town of Cesena in Italy erected a plaque in recognition of his extraordinary acts of courage.

[Translation]

The new war museum also pays tribute to Smokey Smith's courage. The Canadian War Museum is not just a mere repository for the thousands of objects attesting to our military history. It will teach future generations about the real cost of freedom and democracy, and the sacrifices that must sometimes be made to protect our rights and freedoms.

[English]

The Year of the Veteran has also allowed us to consider the role of our modern-day veterans. Veterans are often thought of as participants of wars now consigned to the history books. However, the average age of today's Canadian Forces veteran is just 36. It is my hope that these men and women will be well served by the new Veterans Charter, which was passed by Parliament in May.

Although tremendous focus has rightly been placed upon our veterans throughout this special year, let us hope that their needs are not forgotten when the Year of the Veteran draws to a close. Serious issues such as occupational stress injuries and, in particular, post-traumatic stress disorder must be dealt with openly to ensure that survivors receive the support they need.

• (1340)

As all honourable senators are aware, Saturday marks the beginning of Veterans' Week, which culminates on Remembrance Day, November 11. There are few individuals in our country who are more worthy of our collective praise and gratitude than the men and women of the Canadian Forces, past and present. May we always remember their sacrifices.

TRIBUTE TO CHARLES AND WINIFRED GARDNER

Hon. George J. Furey: Honourable senators, in 2005, the Year of the Veteran, we are recognizing the importance of our military men and women who serve and have served Canada in times of war and in times of peace. Today I would like to pay tribute to two people who have made an extraordinary contribution in this regard: Charles Gardner and his wife, Winifred Davidson Gardner, more affectionately known as Chuck and Davey. Both served our country throughout their lifetimes.

The year in which Chuck Gardner was born, 1917, was a turning point in world events. It saw Czarist Russia overthrown and the United States entering the First World War. Both countries would become dominant and opposing forces for the better part of the 20th century. At that time, Canada emerged as a country in its own right. This would be the military world in which Chuck and his wife, Davey, would devote their careers.

The Gardners spent a lifetime of military service in this new world order. Chuck served in the Canadian Armoured Corps during the Second World War and Davey was a member of the Canadian Women's Army Corps from 1940-45. She was part of the first contingent of women allowed in the men's training facility, No. 24, Brampton. In 1944, Davey was posted to special detail at Camp X, working in communications. Honourable senators will know that Camp X was a secret agent training school during the Second World War and became a top secret communications facility during the Cold War.

Chuck was posted to Camp X in 1946, after his return from England, as Sergeant Responsible for Communications where he served in British Security Coordination. The Gardners married in 1945 and in 1946 their first child, Don, was born. Don was the first baby to take up residence at this top secret facility. Baby Janet came along four years later.

Chuck was transferred to Ottawa in 1950 to work with National Defence until his retirement in 1981. Davey continued her work as a communications officer, travelling to many military bases. She worked closely with Canadian Armed Forces and, at times, the American military. In 1976, Davey Gardner was the first woman to visit CFS Alert. She retired in 1986.

This year marked, along with many military anniversaries, their sixtieth wedding anniversary. They had a lifelong commitment to service and a life together filled with significant firsts. One of the most insightful glimpses into exactly who the Gardners are, however, comes later in life when their daughter Janet grew up and married Glen Harada. Glen was the son of a Japanese couple interned during the Second World War. In spite of their internment and the Gardners' military past, the Haradas and Gardners were able to form a close friendship. This is one of Davey's "greatest points of pride" in a life filled with so many of which to be proud.

On behalf of the Senate of Canada and Canadians everywhere, I would like to salute two ordinary Canadians for their extraordinary contributions to our great country. On a more personal note, I wish to extend my best wishes for a happy sixtieth anniversary in this the Year of the Veteran.

VISITORS IN THE GALLERY

The Hon. the Speaker: I would like to draw the attention of honourable senators to the presence in the gallery of Charles and Winifred Gardner. They are accompanied by Karen Furey and are the guests of Senator Furey.

BOYS & GIRLS CLUBS OF CANADA

Hon. Gerry St. Germain: Honourable senators, the wealth of our nation cannot be fully measured in material terms. We can best gauge the richness of our nation by plumbing the depths of individual caring and compassion, which is deep. Over time, we have collectively woven that individual commitment into a rich Canadian tapestry that speaks of our country's heart and soul.

The heritage we cherish today is alive in the citizenship of good, ordinary Canadians who learned and were nurtured as they grew up. When they were young, they were instilled with strong core values, such as mutual respect, a sense of belonging and acceptance, self-sufficiency and community responsibility. They are our citizenship today. Our hope for the future is in the hearts and minds of the young people of our country today.

Honourable senators, we have a duty, like that of those who came before us, to nurture our youth, provide them with guidance and support, and instil strong core values that build character and shape citizens. No organization in Canada has a longer and more stellar record of investing in our young people than the Boys & Girls Clubs of Canada. Today, as staff and volunteers of the Boys & Girls Clubs across our nation gather in Canada's capital to tell their story as a leading Canadian youth-service agency, I want to offer congratulations to them and say a few words from the heart about what this tremendous organization means to me and to Canada.

For more than 104 years of service to five generations of children, youth and their families, the Boys and Girls Clubs of Canada have been promoting the healthy growth and development of young Canadians. I am proud to have served on the Board of the Boys and Girls Clubs of Greater Vancouver, and I still serve on their foundation, where the organization operates six clubs and a wilderness camp that are part of a network of 101 clubs and communities from coast to coast. More than 150,000 children and teens, aged five to 24 years, are served by 13,000 volunteers and 3,000 professional full- and part-time staff

The Boys & Girls Clubs of Canada truly believe in the positive potential of every child to achieve his or her personal best, given sufficient support and guidance. What could be simpler, honourable senators, than the plain truth that has built every society that ever existed? If we work with our young people to support, guide and help them to develop their skills, knowledge and core values, we will be most certainly assured that they will become fulfilled individuals and contributing citizens.

I herald the work of the staff and volunteers of the Boys and Girls Clubs of Canada and all their contributors and supporters who have tirelessly, for more than a century, helped to build citizenship through their good work with children, youth and their families. No organization is more worthy of praise for such noble achievements.

DIABETES AWARENESS MONTH

Hon. Terry M. Mercer: Honourable senators, the month of November is Diabetes Awareness Month in Canada, while November 14 is World Diabetes Day, the day before National Philanthropy Day. Diabetes is a chronic disease that has no cure and is one of the leading causes of death in Canada. To successfully treat the disease, organizations like the Canadian Diabetes Association promote the health of Canadians through advocacy, education, research and volunteer service. Since 1953, the Canadian Diabetes Association has been raising awareness, providing services and supporting Canadians affected by diabetes.

I had the pleasure of being the Executive Director of the Canadian Diabetes Association in Toronto in the early 1990s. It is a charitable organization that has a presence in more than 150 communities across the country.

Honourable senators, Canada has a significant connection to diabetes in that it was two Canadians, Dr. Frederick Banting and Dr. Charles Best, who discovered insulin, one of the most important medical achievements of the 20th century. This fact reminds us that we must continue to support groups like the Canadian Diabetes Association to ensure that we can eradicate this disease some day in the future. Without the support of Canadians from all walks of life, discoveries like that of Banting and Best might not have happened and might never happen again.

Some honourable senators are directly affected by diabetes. I know that they and all honourable senators will join me in celebrating Diabetes Awareness Month and in wishing the Canadian Diabetes Association all the best as they continue to seek a cure.

• (1350)

ROUTINE PROCEEDINGS

BUSINESS OF THE SENATE

NOTICE OF MOTION TO AUTHORIZE COMMITTEES TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that at the next sitting, I will move:

That, pursuant to rule 95(3), during the period Monday, November 14 to Monday, November 21, 2005 inclusive, the committees of the Senate be authorized to meet even though the Senate may then be adjourned for a period exceeding a week.

[Translation]

CLERK OF THE SENATE

NOTICE OF MOTION TO REFER 2004-05 ANNUAL ACCOUNTS TO INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION COMMITTEE

Hon. George J. Furey: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Clerk's accounts, tabled on October 27, 2005, be referred to the Standing Senate Committee on Internal Economy, Budgets and Administration.

[English]

CANADA-UNITED STATES RELATIONS

MAINE—PROPOSED LIQUEFIED NATURAL GAS TERMINALS—PRESENTATION OF PETITION

Hon. Michael A. Meighen: Honourable senators, I have the honour to present petitions from 86 residents of New Brunswick and elsewhere in Canada, the United States of America and Europe, asking our government to refuse the right of passage to LNG tankers through Head Harbour Passage.

QUESTION PERIOD

INDUSTRY

INVESTMENT CANADA—NOTICES OF NET BENEFIT—PUBLIC DISCLOSURE OF DECISIONS

Hon. Pat Carney: Honourable senators, yesterday I raised the question with the Leader of the Government in the Senate about the secrecy that surrounds Investment Canada's review of foreign acquisitions of Canadian companies. I was specifically referring to Terasen Gas, which is subject to takeover by Kinder Morgan of

Texas. I also asked about the publication of net benefits for the acquisition, four years ago, of Westcoast Energy Inc. by Duke Energy of the United States. The minister has kindly offered to find out more particulars on those cases.

Today, I want to bring this file up to date by pointing out that the information available on Industry Canada's website details the names of the investors, the name of the Canadian business and what the business does. It provides no details of the analysis of Investment Canada or a review of net benefit. It merely informs Canadians that there was a review of the investment after the deal had been approved by the minister. For example, in September, almost 50 decisions were reviewed by Investment Canada, including a review of these two decisions. In the case of two decisions that were reviewed, there were notifications but no details were released.

Therefore, I ask the minister the more generic question: Why, in the case of these two decisions that were reviewed, could the net benefit information not be published?

As well, I would specifically refer to the investor Pogo Producing Co. of Houston, Texas and its take-over of Northrock Resources Ltd. of Calgary, which explores and produces oil and natural gas. What reason would be put forward for failing to make public the net benefit to Canada from those transactions?

Hon. Jack Austin (Leader of the Government): This is essentially the same question that Senator Carney asked me yesterday. Therefore, I cannot expand on the answer I gave yesterday.

However, I would point out that there is no legal barrier contained in any trade agreement that we have with the United States, including the free trade agreement and NAFTA, to prevent an American company from acquiring an ownership in, or even control of Canadian companies. We referred yesterday only to the barriers in Canadian legislation.

I will seek to provide that information as soon as I can.

Senator Carney: The minister has pointed out that he has agreed to provide information on the two specific cases that I asked about. As he has correctly reported, Terasen is under review, and therefore the reasons could not be announced yet. Specifically with regard to the Duke Energy acquisition of Westcoast Energy, he has agreed to look into that. I am asking him to look at the broader question of where these decisions were reviewed, and why the information I am seeking has not been made public.

I am talking only about companies in sensitive areas, one of which is gas pipeline transmissions; others may deal with cultural issues and others with areas that are specified in the act. I am only talking about the sensitive areas.

What is examined is the effect of the investment, that is, the level and nature of economic activity, including employment and resource processing; the degree of significance of participation by Canadians in the business; the effect of the investment on

productivity and industrial efficiency; the impact of technological development on product innovation and product variety in Canada; and the effect of the investment on competition with any industry or within industries in Canada Often the Canadian board of directors is displaced, shut down or retired and there are no Canadian directors.

Let me point out, again, that, of the hundreds of transactions that take place in a year, only about 40 are reviewed. I ask the minister for the commitment he did not give yesterday, which is to give us the rationale for the failure to publish the minister's decisions.

The minister has the right to say yes or no; it can or cannot go ahead. I am asking him, beyond yesterday's request about Duke Energy and Westcoast, to tell us: What are the minister's decisions and reasons for decisions respecting the list of acquisitions that have taken place in recent history?

Senator Austin: Honourable senators, I want to be clear on the record that I did not undertake to provide information with respect to either Terasen or Duke in response to the questions asked by Senator Carney. I have undertaken to examine the precedents respecting the disclosure of what normally would be considered proprietary information between these companies that are making these applications and the government's determination of net benefits.

If there is precedent for such disclosure, I will pursue the matter further.

Senator Carney: I appreciate the importance of precedents, but precedents refer to the past and I am referring to the future in view of the multibillion-dollar transactions that are taking place in the energy field.

In looking at his response yesterday, the Leader of the Government specifically did undertake to ascertain what was said by the government at the particular time in respect to the takeover of Westcoast Energy.

For the record, precedents are interesting, but I want to know why, since the act does not prohibit the release of this information, we cannot get information now on the transactions that have taken place in these areas — particularly Westcoast and some of the others that I mention in my question today.

• (1400)

Senator Austin: Honourable senators, I refer to page 2032 of the Debates of the Senate where, after the question asked by Senator Carney regarding Westcoast Energy and the takeover by Duke Energy, an American company, I said, "I shall make inquiries to ascertain what was said by the government at that particular time and will advise Senator Carney." I said, "...what was said by the government..." Nothing may have been said by the government; I do not know. If the government made a public statement at that time, I will draw it to Senator Carney's attention.

Hon. Lowell Murray: Honourable senators, whether the government did or did not make a public statement at the time, one must assume that the government must have some reason under the Investment Canada Act for declaring that a particular transaction was or was not of net benefit to Canada.

The question is not, with great respect, one of precedent. The question is one of law, and there is clearly no impediment in the law — in fact it is explicit — that the minister may publish the reasons for having declared a transaction to be of net benefit or not. The only undertaking we are looking for here in respect of the transactions referred to by Senator Carney, and whether in the interests of transparency the government will make that information.

Senator Austin: Honourable senators, it may be good public policy that that information not be disclosed in whole or in part. I am sure that question was canvassed by the government of which Senator Murray and Senator Carney were members. It would be of interest to know why, if the issue was canvassed, there was no specific provision put in the legislation requiring disclosure of a file.

FOREIGN AFFAIRS

IRAN—COMMENTS BY PRESIDENT WITH REGARD TO ISRAEL

Hon. Hugh Segal: Honourable senators, my question to the government leader in the Senate relates to the deplorable statements made by the President of the Islamic Republic of Iran some days ago to which, to his credit, our Prime Minister responded with a forceful and precise indication of why those statements were unacceptable to any Canadian.

Can the Leader of the Government in the Senate inform the chamber what specific actions the Government of Canada and the Department of Foreign Affairs have taken to support our Prime Minister in his strong statement on this issue? Was the Iranian chargé d'affaires called in for a formal discussion with our officials? Did our ambassador in Tehran forward a formal note to the foreign ministry in that city? Has the Canadian government done anything to support the Prime Minister's superb statement of leadership on this matter, one that has been noted by capitals around the world?

Hon. Jack Austin (Leader of the Government): The answer to the first part of the honourable senator's question is yes. The Department of Foreign Affairs called in the Iranian chargé d'affaires and delivered the government's position and Prime Minister Martin's statements, and the chargé d'affaires was told in no uncertain terms how unacceptable the statement of the Iranian president was.

I would have to make inquiries with respect to the work of our ambassador in Tehran. I do not have any direct information. Senator Segal is also aware that Canada is one of several countries that have taken the same position. Even the Palestinian Authority has made it clear that they do not accept the statement of the President of Iran in terms of their attitude and relationship to the State of Israel.

Senator Segal: May I impose upon the minister, when he makes inquiries as to what further activities might have transpired, and ask him to share with us the thinking of the government with respect to the issue of sanctions which is now being debated constructively in the European community in the context of

genuine concern about the growth of potential nuclear capacity in Iran, and the security threat it provides not only to the region but to Europe itself? Could he undertake as well, when convenient, to reflect in this chamber on where Canada's policy in that matter is headed?

Senator Austin: Honourable senators, the issue of sanctions is certainly one that has been raised in international discourse. I am not in a position at this time to say what consideration is being given to it by the Government of Canada as one of the methods of its registering our views on this statement of the President of Iran, which has horrified much of the world community and challenged the entitlement of Iran to be considered to have met the tests of membership in the United Nations.

I will make inquiries and, when I can, provide Senator Segal and the chamber with further information. I will be happy to do so.

Hon. Marcel Prud'homme: I appreciate the answer of the minister to the request of Senator Segal, with whom I agree. Contrary to last week when I was amazed by emails of all kinds, some of which I shall publish, but some do not convey a message most of us would want to read. Some were threatening emails. That demonstrates, honourable senators, that when you touch on certain issues, you have to carefully choose your words.

My remarks last week may have been incorporated in another topic. Today I shall concentrate solely on Iran. I did speak with them, and in no uncertain terms. For those who have known me for the last 41 years, when I say "in no uncertain terms," I usually say, "En français, on dit: je ne fais pas dans la dentelle." Therefore, may we have the assurance of an answer. I am sure Senator Segal and other senators, whom I prefer not to mention, would be as interested as I am in that answer since we are about to adjourn for a week when we will be working hard in a different way. I will not talk about any other issue.

If the minister could provide an answer by tomorrow, I am sure it would be most appreciated by Senator Segal and by me. I will try again to encourage colleagues, as I have done with my friend, Senator Tkachuk, to not only use rhetoric but to engage with people. There is no other way. I am sorry Senator Fraser is not here, but I would engage her as I have done as chairman of IPU. I provoked North Korea and they sat down with the Canadian delegation privately. I provoked the Iranian delegation. They also sat down with us. It was unique. If you do not engage people, how can you get your message out?

An Hon. Senator: Question!

Senator Prud'homme: Who yelled "question"? I have been listening attentively to other colleagues. I think I know where it came from. I will not mention a name. However, that honourable senator is not known to ask short questions.

I agree with Senator Segal, and if the leader could give us the beginning of an answer by tomorrow, I am sure senators would appreciate that. I am sure those I look at, without mentioning their names, will appreciate an answer as well. As for the abuse I went through last week, I will share my concerns on that with honourable senators in a public speech in the Senate.

Senator Austin: Honourable senators, I will respond to Senator Prud'homme by saying, yes, I will make inquiries today on this topic. However, I want to caution that if the issue of sanctions is being considered by the international community, and I cannot make that statement positively, I would speculate, indeed, I have no doubt, that it is a complex and difficult topic to deal with and that it is not easy to reach a speedy conclusion.

Hon. Yoine Goldstein: Honourable senators, I regret that the honourable senator has received abusive email. I must say that I have received some as well, but I dare say that Canadians are entitled and indeed obliged to take positions with respect to anything that is said in this house. As well, they are obliged to take positions, both for and against, although I do not enjoy receiving abusive emails.

Canadians are entitled to say what they want to say in emails and I believe they should not be criticized for expressing their views. We are all over 21 because we must be to be appointed to this honourable chamber. We are old enough to accept whatever minimal abuse happens to come along, coupled with the congratulations that we get when we say good things in this honourable chamber.

• (1410)

I should also add that on Monday the other place passed a unanimous resolution condemning Iran's president for the statements that had been made.

FINANCE

ELIMINATION OF CAPITAL GAINS TAX ON GIFTS OF LISTED SECURITIES TO CHARITIES

Hon. Michael A. Meighen: Honourable senators, I have a question for the honourable Leader of the Government in the Senate, but the price of my question is a fairly long preamble.

Knowing the minister as I do, I know that he will know that since the 50 per cent reduction in capital gains tax on gifts of listed securities some eight years ago, there has been a \$1.5-billion increase in gifts of stock to our universities, hospitals, community foundations, research institutes, and arts and culture organizations.

In Toronto alone — and I hate to refer to the favourite city in Canada, but I must — gifts of stock to the United Way rose from only \$44,000 in the 40 years between 1956 and 1996 to more than \$24 million in only eight years between 1997 and 2005. What better proof that the elimination of this capital gains tax is working? I suggest to the Leader of the Government that the fall fiscal update is the time to announce the elimination of the remaining 50 per cent tax.

Some Hon. Senators: Hear, hear!

Senator Meighen: Knowing how jealously the government likes to guard all the revenue generated by the GST and other measures brought in by the previous government, I want to reassure the leader that the cost to the federal treasury would be only about \$50 million in forgone annual revenue that would be shared equitably between the donor, the federal government and the provinces.

Interestingly enough, there would be no cost to municipalities— and most of our charities, hospitals and other such institutions are located within municipalities.

As the leader will know, this proposal is supported by the Conservative, NDP and Bloc Québécois parties, by the mayors of 24 Canadian cities, by the Standing Senate Committee on National Finance, the Finance Committee of the other place, as well as 16 former premiers from every province representing every political party, and three former prime ministers. What more unanimity would the government like to have than this? Surely the government does not need any political courage to move on this one.

Will the Leader of the Government use his undoubted powers of persuasion and urge his colleague, the Minister of Finance, to take advantage of this widespread, somewhat unusual unanimity, level the playing field with the United States and the United Kingdom, and bring about, at the very first opportunity, a complete capital gains exemption for gifts of listed securities to charities?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will speedily bring Senator Meighen's representation to the attention of the Minister of Finance.

Senator Meighen: On that, the honourable leader can hang his reputation as a persuasive orator.

INTERNATIONAL TRADE

INTERNATIONAL TRADE TRIBUNAL— SPECIAL SURTAX ON BICYCLES

Hon. David Tkachuk: Honourable senators, I will do something different here — I will actually ask a question.

The Canadian International Trade Tribunal proposed that for the next three years the government impose a special surtax on bicycles imported from developing countries such as China to protect the domestic industry. The tribunal found no evidence of dumping, only that rising import levels were hurting the domestic industry. Such a surtax, which is proposed to be 30 per cent in the first year, 25 per cent in the second year and 20 per cent in the third year, requires the approval of cabinet. Could the Leader of the Government in the Senate advise as to when a decision will be announced?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no answer to provide the chamber at this time.

Senator Tkachuk: If cabinet is considering seriously an additional tax on imports to protect the domestic industry, as requested by the industry, this would be in addition to the existing 13 per cent tariff on bicycles from Asia. In what way would a tariff to protect a domestic industry differ from the tariff imposed by the United States on softwood lumber?

Senator Austin: Honourable senators, I was trying to form in my mind whether Senator Tkachuk is supporting this enhanced tariff to provide assistance to bicycle manufacturers in Canada or opposing it. I am not clear on his position. However, his conclusion relating to the softwood lumber issue is a bridge too far on the bicycle issue.

Senator Tkachuk: I simply asked a question as to when cabinet will consider this matter because retailers all across the country are very concerned about it. There have been numerous newspaper articles and meetings about this matter, yet the issue has been left hanging by the federal government, which makes it difficult for people in the retail business to plan how many bikes they should order, and all the rest of it. The government has an obligation to clarify this situation one way or the other.

Thus I will ask again: When will cabinet consider this matter? Will the leader advise the Senate, as well as the people of Canada, when a decision will be announced?

Senator Austin: I cannot provide the cabinet's schedule of business at this time.

Hon. A. Raynell Andreychuk: Honourable senators, perhaps the Leader of the Government will provide some information for me on this bicycle issue. It affects all small retailers across Canada, not only some of the larger ones.

There are two bicycle companies in Canada, both of which produce a type of bicycle at a price that will not be harmed if this duty is not placed on imported bicycles. In other words, there are two different markets. While we should protect our manufacturers, in this case retailers who import bikes from China, or elsewhere, of a particular type that is not manufactured in Canada are actually being hurt. Once all of the costs are added, we are into another price range for bicycles.

I do not think that the CITT fully understood the business of manufacturing and selling bicycles. I hope the government will look at this issue again to protect both sides of the industry.

Senator Austin: Honourable senators, I very much appreciate the comments of Senator Andreychuk. I will look into the matter.

I assure honourable senators that I have no conflict of interest. I do not own a bicycle and do not plan to buy a bicycle. No one in my family owns a bicycle or intends to buy one.

INDUSTRY

BOMBARDIER—BUILDING OF PLANT IN MEXICO—EFFECT ON FEDERAL AID

Hon. Mira Spivak: Honourable senators, in addition to the 600 jobs that will be lost to Bombardier's new plant in Mexico, over the weekend the company announced suspension in January of its 50-seat CRJ200 regional aircraft, meaning another 600 Canadian aerospace workers will be unemployed. From China came musings from another Bombardier official that the

company is discussing production of aircraft in that country. The Government of Quebec now says it believes that it has a promise from the company to replace the Quebec jobs that are going to Mexico. The company is saying, essentially: What promise?

Canadians have been told, time and again, that the real value of government aid to Bombardier lies in creating aerospace jobs — jobs in Quebec, Ontario and in the West, where suppliers count on this anchor of the Canadian aerospace industries.

David Chartrand, President of Local 712 of the International Association of Machinists and Aerospace Workers, is worried about the future of his 6,000 company workers. He has said recently that governments in Canada that have provided substantial aid to the firm should in the future help to guarantee that it will keep jobs here. Bombardier, he says, has a social obligation to return quality jobs into the economy. If not, the company should not benefit from a taxpayer's dollar.

• (1420)

What understanding does the Government of Canada have with Bombardier about federal aid and the maintenance of jobs in Canada?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will make inquiries with respect to Senator Spivak's specific question, but it may take some time to provide a response. She is aware that a number of agreements and undertakings run between the Government of Canada and Bombardier relating to support for industrial development and research in order to maintain a healthy aerospace industry in Canada. The answer will require some investigation.

We do want to maintain in Canada viable economic competitors in the international market. We should be very careful to intervene in the decisions of a corporation and its board of directors as it might, in fact, impair the company's economic stability and growth.

I am not suggesting for a moment the position of the Government of Canada. I am offering, however, a comment for Senator Spivak and other senators to consider as we discuss the impact of globalization on the competitiveness of Canadian companies. That subject will take a great deal of thought and examination in the months ahead.

Senator Spivak: I thank the minister both for his attention and for the lecture, but I will say this: For companies that do not receive extraordinary amounts of federal aid, it is not at all unusual to export jobs. It is a different matter when companies receive aid both directly and through export development loans to their customers, such as Bombardier has done to Northwest, I believe. One has to balance interests between the welfare of the company, which I understand, and the welfare of jobs in Canada and the taxpayers' money supporting those jobs.

I thank the minister for his efforts, and I hope he will keep that in mind.

Senator Austin: Honourable senators, I am sorry if Senator Spivak thought I was delivering a lecture. I was attempting to respond in a useful way to the general debate that she wishes to initiate.

I would like to add a comment for her reflection. It may at times be important to the global competitiveness of a Canadian company that it receive WTO-permitted assistance in various forms. The idea that the company's ability to grow, expand and be profitable would hang on the simple thread of financial support of one kind or another would raise very difficult considerations.

The Hon. The Speaker: Honourable senators, given some of the exchanges during Question Period, I would like to remind you of rule 24(4), which states:

A debate is out of order in an oral question, but brief explanatory remarks may be made by the Senator who asks the question and by the Senator who answers it.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before proceeding to Orders of the Day, I would like to draw your attention to the presence in the gallery of the participants of the fall 2005 Parliamentary Officers' Study Program. We have participants from Brazil, Colombia, Costa Rica, Mexico, Paraguay, Peru and Uruguay.

Welcome to the Senate of Canada.

[Translation]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I should like to introduce a House of Commons page taking part in the exchange program. Francis Cloutier is enrolled in the Faculty of Management at the University of Ottawa and is majoring in accounting. Francis hails from Edmunston, New Brunswick. Welcome to the Senate.

[English]

ORDERS OF THE DAY

CANADA BORDER SERVICES AGENCY BILL

THIRD READING

Hon. Tommy Banks moved third reading of Bill C-26, to establish the Canada Border Services Agency.

The Hon. the Speaker: Do you wish to speak, Senator Banks? If not, I will see Senator Forrestall.

Hon. J. Michael Forrestall: Honourable senators, I wish to say a few words as we bring to an end debate on Bill C-26, the bill that takes the dangling participle out of the Deputy Prime Minister's

activities over the last two years and gives her a firm grasp on probably not just 25 or 30 per cent of her mandate.

Honourable senators, it has been an interesting period of time. It speaks volumes that it has taken two years to get this matter to this point in our agenda.

These are very difficult times. Lest anyone has any doubt about that, let me remind everyone that we, the U.S. and our mutual allies are, in fact, in a war on terror. Canada faces a high likelihood of attack in Afghanistan and, sadly, nevertheless realistically, here at home at any time.

The United States and its allies face attacks in Iraq; London has suffered two strings of bombing attacks by Islamic terrorists; Bali and Indonesia have been bombed again by Islamic militants. India, as we all know, has been attacked by Islamic terrorists; and Russia is faced with constant attack by an increasingly organized radical Islamic-based insurgency in Chechnya. The Russian president has threatened that even though he will not seek a third term, he will also not let Russia descend into chaos.

China continues an astounding military buildup for what many of us believe is more than a war of reunification with Taiwan, perhaps something very much beyond.

North Korea and Iran, despite international pressure, continue the development of long-range missile forces and nuclear weapons.

The world looks like it is facing its next deadly flu pandemic sometime soon. We have been fortunate that the birds tested to date have not had the deadly flu virus H5N1.

If that is not enough, by way of reminder, al Qaeda has placed the killing of Canadians as priority number five. We have been mentioned as a target for al Qaeda attacks twice, and once, as we all recall, by Osama bin Laden himself.

• (1430)

There are reports that al Qaeda has conducted reconnaissance missions on the Canadian border. Al Qaeda is not alone. In February, a reported Hezbollah operative crossed the border in the Detroit area from Canada and was arrested by our American neighbours when it was found that he had operative traces of explosives on his passport. Not a word from the government on this issue and not one comment from the Canada Border Services Agency. This is not a healthy picture. The world is unstable, dangerous, and dangerous for Canadians and for our interests at home and abroad.

It is particularly important that we be aware of border security. Our neighbour, the United States, continues to be highly concerned in this regard. Canada's prime foreign policy concern is the maintenance of good relations with the United States. Security is the pre-eminent concern of the United States. With 80 per cent of our trade running south, security must be our pre-eminent concern, unless you buy the government's pre-election "Yankee bashing" and think that we should trade more with China.

Bill C-26 has the effect of amalgamating the Canada Border Services Agency, the Canadian Food Inspection Agency and part of the Department of Citizenship and Immigration. The bill was reported to the other place with two amendments and the government introduced another amendment at report stage to correct an error in the bill. The fact that the government had to introduce an amendment at that stage again says something about the further lack of competence of this government with regard to this vital issue. The greatest disregard is the passage of time

One passed in committee in the other place was moved by my party, the Conservative Party of Canada. It called for an annual report of the operations and performance of the agency and that this requirement should be enshrined in the legislation. It required the agency to table the annual report after the end of the fiscal year and before the end of the calendar year. In other words, the 2005 report of the agency would have to be tabled by March 31, 2006, not after December 2006. Without question there is a need for more accountability and reporting on the activities of government as never before. There is need for transparency in a government that has spawned the shame of AdScam.

The government has noted in the past that Treasury Board, on behalf of the Canada Border Services Agency, files performance reports and that these reports should be considered annual reports. However, the requirement of the Financial Administration Act does not specifically say that an annual report or performance report is required. It now does.

Other agencies that file performance reports are also required by statute to file annually. These include SIRC, the Correctional Investigator, Correctional Services of Canada and the RCMP External Review Committee. We can all agree that greater transparency and accountability respecting operations of the government is an important part of achieving public confidence. Parliament needs to know the truth. Canadians deserve the truth.

The report must be to Parliament, and it must be honest and unfiltered.

I took the occasion in the discussion with Minister McLellan in committee earlier this week, to suggest to her that, while there is provision for the required report from the agency to the Treasury Board and the acceptability on the part of government of that report as a report of that agency to both Houses of Parliament, that is not quite good enough. I pointed out the urgency and the necessity for greater transparency. We should not ask the Canadian people to be satisfied with a report from as vital an agency as Canada Border Services Agency that has been filtered through the Treasury Board of Canada before it gets to their parliamentarians and to them.

The minister listened thoughtfully. We engaged in a brief debate and she undertook to review the practice.

Colleagues, I know that it is time for the government to get to work in rebuilding our national security assets and our capacity before it is too late. The light and shadow show of spin and perception must end and some concrete action must be taken. This is certainly a step in the right direction. Much more

thoughtful and considerate legislation is required if our appropriate ministries and departments are to effectively ensure a secure, safe border and a peaceful country in which to raise our families and enjoy our lives.

Some Hon. Senators: Hear, hear.

Senator Banks: I would ask that the question be put.

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: No senator rising to speak or adjourn the debate, I will put the question.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

TELECOMMUNICATIONS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Tardif, seconded by the Honourable Senator Massicotte, for the second reading of Bill C-37, to amend the Telecommunications Act.

Hon. David Tkachuk: Honourable senators, I was tempted to phone all of you about this bill, but I thought better of it.

I should like to read from the government press release on Bill C-37 which states:

Once the legislation is in place, it is expected that the CRTC will undertake consultations to find an administrator, to determine how the list will operate and how much it will cost, and to consider whether any types of calls should be exempt from the Do Not Call List.

In other words, passage of this bill will delegate the legislation to the CRTC. Senator Tardif spoke to the specifics of this bill. I understand it was her first speech, and a good speech it was. She covered many of the specifics of the bill adequately last week. She told you that its intention was to remove, what she called and the government calls, "an irritant" from the lives of Canadians. I found it rather amusing and not a little ironic that Senator Tardif cited an Environics poll that Canadians find telemarketing irritating, and I wondered how that poll was conducted. No doubt, useful information was collected by Environics, as Senator Tardif pointed out, which is why pollsters are one of the groups being considered for an exemption from the DNC, do not call registry. Politicians, fortunately — protecting ourselves again — are another group among those groups proposed for exemption to this legislation. If you are selling soap you cannot call, but if you are selling politics, you can.

Senator Rompkey: Soft soap.

Senator Tkachuk: Since pollsters and politicians irritate the public the most — the results are there for all to see.

• (1440)

I have no quarrel with the principle of this bill. I would, however, like to raise a few issues in the hope that it will be discussed when the bill reaches committee. These issues may not be resolved there, but I am hoping that they will be.

I find it somewhat less than comforting that the government can introduce a piece of legislation minus important specifics. We really do not know how this bill will be administered. We do not know anything about it except that this is what the bill will do and we will let the CRTC do it. We do not know how much it will cost, how it will be administered or who will be exempt. We will let the CRTC do all of this.

We do not even know how the do not call registry will work. We are delegating the right to formulate legislation on this bill directly to the CRTC.

Honourable senators will understand my concern about this registry, especially one that lacks details in the area I have described. I hope that a do not call registry will be more effective at preventing marketers from making illegal calls than the billion dollar gun registry has been in preventing criminals from shooting off their guns in our streets.

Senator Comeau: Two billion dollars.

Senator Tkachuk: I find it bewildering that the government can introduce a bill about which it will conduct Canada-wide consultations only after the bill has been passed. It would have been wiser to do this previous to the bill being introduced in the House. Since the horse has left the barn, the Senate committee to which this bill will be referred should be charged with conducting such consultations, not the CRTC.

Politicians should be listening to the concerns of Canadians on this matter because there are serious business implications for those who will be exempted from this list and those who will be allowed to conduct business via the telephone.

It is not just a simple matter. When this decision is made, it will mean that a particular organization or a business that has many employees who depend on telemarketing for their livelihood all of a sudden will be out of business and will have to find other ways to go to the consumer, perhaps door to door.

The thing about the marketplace is that a business will find a way to get its product to the consumer. If they cannot do it by telephone, perhaps they will be knocking on your door instead or perhaps filling your mailbox with direct marketing material using paper products from our forest industry.

It appears that the House of Commons committee studying this bill only called the Direct Marketing Association as a witness, which is the association that I belonged to before I became a senator. I was in the direct marketing business.

Some Hon. Senators: Oh, oh!

Senator Tkachuk: I was in the direct mail and telemarketing business, so I know a little bit about what I speak. It is strange that they were the only organization called as a witness and that other businesses and organizations were not.

A number of businesses like charities, political parties and pollsters were exempted from this list. I would like to find out what the rationale was for the exemption. I hope that our committee will call witnesses to that effect and will find out why these groups were exempted and others were not allowed to conduct business on the telephone without the threat of being put on do not call registry.

Individuals make their telephone numbers public. The reason businesses are able to phone them is because their phone numbers are in the phone book. Their numbers are in the phone book so that people can call them if they wish to reach them about something, and then they get angry if they are called.

I had a private listing for some time, so I never received any calls. A couple of years ago I decided that I did not want to pay the \$2 a month, so my number is now in the phone book. I suppose there are people who do receive a lot of phone calls, but I do not get many.

Some Hon. Senators: Oh, oh!

Senator Munson: What is your number?

Senator Tkachuk: If you have something to sell, Senator Munson, which I doubt, you can call me.

Honourable senators, the Conservative Party of Canada supports this bill in principle. However, there are many unanswered questions and issues that are important to Canadians, both those who are receiving the telephone calls and those who are delivering the telephone calls.

Honourable senators, my hope is that we give this proposed legislation more than a cursory examination, and that will be our intention on this side of the house.

Senator Rompkey: Question!

The Hon. the Speaker pro tempore: Are senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Tardif, bill referred to the Standing Senate Committee on Transport and Communications.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Ferretti Barth, for the second reading of Bill S-43, to amend the Criminal Code (suicide bombings).—(Honourable Senator Eggleton, P.C.)

Hon. Art Eggleton: Honourable senators, I rise to briefly express my support for Bill S-43, an amendment to the Criminal Code which would, for greater clarity, as its sponsor indicates, add the words "suicide bombing" to a prohibited terrorist activity.

I want to, first, express my appreciation and congratulations to Senator Grafstein who has introduced this bill and advanced solid arguments for it to be supported by members of this chamber. Yesterday, we heard a very eloquent dissertation from Senator Segal, our new senator from Kingston and the Islands, in support of this bill as well.

I want to add my voice — less eloquently, I am sure, than either of those honourable senators — in support of this particular amendment.

This subject has dominated our lives so much over the past few years. We read on a daily basis about these terrible crimes against innocent men, women and children in many different parts of the world. Every day we hear about the suicide bombings in Iraq or in the Middle East. We hear about it happening in many other parts of the world, including Bali and Chechnya. We also hear about it on our own continent, as we know all too well from the events of 9/11.

I think we view this particular act of terrorism — suicide bombing — in a different context than what we see occurring every day in Iraq. It is, nevertheless, a situation where people are convinced that for some reward in the afterlife, it is a good thing to destroy the lives of innocent people of different faiths, many of whom are Christians, Jews, Muslims or Hindus. The suicide bombers make no distinction in carrying out these terrible acts. They do not care about the people who are affected, including those who subscribe to much the same faith, even though in a much more moderate way.

(1450)

Once a suicide bomber has carried out that act, there is absolutely no provision in the Criminal Code of Canada or in the criminal provisions of any country to deal with that particular person. We know that these people do not act alone. We know that they are recruited and taught. We know that people organize the effort and set the stage for these suicide bombers to carry out their act. We know that certain people finance these operations. These are the people we need to get at in order to prevent suicide bombings.

Some people may ask what that has to do with Canada. They may tell us that these things are happening in other places. Honourable senators, we must understand that we do have some responsibility, in a world context, to demonstrate our condemnation. This kind of act is totally morally wrong. It was condemned by the General Assembly of the United Nations. I am glad that, in addition, British Muslim organizations that issued a fatwa against people who would carry out suicide bombing made this clear after the bombings in the London transit system just this past July. They said that there is absolutely no justification for this in Koran whatsoever. I know we all understand that fully, but still these radical elements have carried out these terrible acts against innocent people.

Canada, in a world context, needs to show leadership on this, just as we have shown leadership in so many other areas, for example, peacekeeping and peace support operations. We need to be at the United Nations, helping to ensure that countries take action against this kind of crime against humanity. As part of doing that, honourable senators, we need to set the example ourselves by way of an amendment to our own Criminal Code to make it quite clear that this is a crime and it is one that we will do everything to stop, to prevent and that we will prosecute anyone who has had any association with that kind of activity. No, we have not suffered such an attack here, thank the Lord, but we can never take it for granted that it will not happen.

We have seen it in our own backyard, in New York, Washington and Pennsylvania on 9/11. We can never take it for granted that it will not happen here. I believe that we should amend the Criminal Code to include a provision to deal with this situation. People may ask if there is not already a provision that covers terrorist activities in the Criminal Code. There is. Some lawyers would argue that this activity is covered.

As Senator Grafstein has quite properly pointed out in introducing Bill S-43, there must be more certainty about this. When you bring the full weight of the law to bear against citizens, there must be a great degree of precision and certainty in the law. That is exactly what the senator is saying when he says that, for greater certainty, we should add suicide bombing specifically to the terrorist activities that are prohibited in the laws of Canada.

I rise to express my appreciation to him and to Senator Segal, who also spoke yesterday, and to add my support for this bill. I trust that all senators will support this worthy bill.

On motion of Senator Rompkey, debate adjourned.

CANADA TRANSPORTATION ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Corbin, for the second reading of Bill S-6, to amend the Canada Transportation Act (running rights for carriage of grain).—(Honourable Senator Austin, P.C.)

Hon. Jack Austin (Leader of the Government): Honourable senators, this debate was adjourned in my name. I am now ready to respond to the presentation that Senator Banks made in the chamber on Bill S-6.

Honourable senators, Bill S-6 proposes to change the running rights provisions of the Canada Transportation Act, the CTA. I should like to open my remarks by commenting in general terms about the issue of expanded running rights. This controversial issue has been debated extensively over many years. A number of interested parties have supported expanded running rights and previous running rights applications to the Canadian Transportation Agency, CTA, primarily as a means of increasing competition between the railways. However, other interested parties are opposed to expanded running rights on the grounds that this could have a chilling effect on badly needed railway investment, especially in Western Canada, which, frankly, is the last thing we need at this time, that is to say, a chilling effect on badly needed railway investment.

Many honourable senators remember the problems that western shippers experienced in the late 1970s and early 1980s as the government came to grips with the lack of railway investment attributable to the low Crow rates for moving grain. I was much involved in the work leading up to the legislation which replaced the historic Crow rate which, in the emerging area of liberalized trade under the World Trade Organization, could simply not be allowed to continue.

Many shippers have called for regulatory stability in order to encourage railway investment and would view Bill S-6 as a slippery slope that could lead to extensive regulatory running rights for a number of commodities as the minister of the day responded to short-term political pressure from shippers.

Some stakeholders claim that the Canadian National Railway, CN, and Canadian Pacific Railway, CPR, faced no real competition. I would submit to honourable senators that this is not the case, especially for grain traffic, since every grain movement starts in a truck at the farm. Most farmers have options concerning the delivery point and the grain company to whom it will be delivered. It is generally acknowledged that there is effective competition among the grain companies. In turn, over the last decade or so, the grain companies have built new networks of high throughput elevators. The grain companies were strategic in building many of these facilities. They built them so that they would have greater choice of rail service providers. In addition, grain shippers have the unique protection of the revenue cap, plus access to the shipper protection provisions in the CTA that are available to all shippers.

Senator Banks made reference to CN and CPR comments in support of increased rail competition in the United States. It is important to consider the context of these comments. They were made as part of the review of major railway merger proposals, not as isolated applications. These merger proposals are almost the only opportunity the U.S. Surface Transportation Board has to order running rights. Merging railways generally accept increased competition, sometimes in the form of running rights as a necessary condition for merger approval.

Shareholders often cite the experience in other network industries as a justification for expanded running rights. The CTA review panel examined this argument and determined that the railway sector was not analogous to gas, electric, and telecommunications industries and could not be treated as such. For example, the panel concluded that:

...from a technical and operational perspective, railways are considerably more complicated than other network industries in terms of physical planning, coordination, safety, switching and administration.

• (1500)

The Minister of Transport opposes this bill on the grounds that potential changes to running rights provisions should be considered within the broader context of other remedies that are available to shippers and amendments to the CTA that are being proposed in Bill C-44, which is currently before the House of Commons.

Unilateral changes in the running rights provisions may jeopardize the regulatory balance among the interests of shippers, carriers and other stakeholders in Canada's freight rail transportation system. The CTA relies primarily on competition and other market forces to ensure viable, efficient and effective transportation services. The government's approach to transportation policy has generally been successful and is supported by most shippers and carriers.

This was recognized by the CTA review panel, which was established in the year 2000 to conduct a statutory review of the CTA, by concluding as follows: First, the rail system works well for most users most of the time; second, the system is fundamentally competitive and efficient and is not inherently anti-competitive; third, there is no evidence that the railways are earning excessive profits; fourth, market abuse is not systemic or widespread; and fifth, most shippers within most markets are well served.

Nonetheless, government intervention may be necessary on occasion to correct market imperfections. That is why the CTA contains a number of shipper protection provisions to address potential abuses of market power by the railways. These tools are aimed at achieving an appropriate balance between the interests of shippers and carriers. They also help improve shippers' leverage in negotiation with the railways.

Let me take a few minutes to discuss some of the key shipper protection provisions currently contained in the CTA as well as some proposed changes that are included in Bill C-44 tabled in the other place last March. As I have indicated, the issue of running rights cannot be considered in isolation of other shipper protection provisions.

A first shipper protection provision contained in the CTA is the stipulation that any rail rate or condition of service established by the CTA must be "commercially fair and reasonable to all parties." I am referring to section 112. This requirement reflects the need to take into account the commercial interests of both parties affected by the agency orders. It also seeks to ensure that regulatory decisions are consistent with commercial realities. Bill C-44 proposes to retain this condition.

Another shipper protection remedy consists of the level of service provisions, also referred to as common carrier obligations, which require that a railway provide adequate and suitable service to the shippers. A shipper who is not satisfied with the level of service can complain to the CTA, and the CTA has broad powers to order corrective action, if necessary. Many shippers mainthat level of service obligations are the foundation for existing and future competitive access provisions. The level of service provisions are popular with shippers, and there is a consensus that they, too, should be retained, as Bill C-44 proposes to do.

The CTA also contains provisions that provide a shipper served by only one railway with a regulated rate to a connection point that is also served by a second carrier. The intention is to provide such shippers with competitive options for the movement of their traffic from the interchange point to destination.

These so-called "interswitching" provisions apply to movements to an interchange point that is within 30 kilometres of the origin point. There is a broad consensus that these provisions work well. They are being retained with a minor change to clarify that regulated interswitching rates are maximum rates, allowing for negotiation between shippers and carriers for lower rates.

On a related note, the CTA currently contains competitive line rate provisions, similar to those for interswitching, except that they apply to connections to an interchange that is more than 30 kilometres from the origin point. In Bill C-44, the government proposes to replace the competitive line rate provisions with competitive connection rates.

Under the current legislation, before applying to the CTA to set a competitive line rate, a shipper must have an agreement with the connecting carrier for the movement of his or her traffic beyond the interchange point. Shippers view this requirement as a barrier that significantly reduces the effectiveness of the remedy. Bill C-44 proposes dropping this requirement.

Under Bill C-44, competitive connection rates would be available only to shippers without effective, adequate and competitive transportation alternatives. Moreover, they would only be available in situations where the CTA would have determined that the rate for the movement from origin to destination is substantially above the rates for movements of similar traffic under similar conditions. While there are some objections to these conditions, this is consistent with the overall approach of using regulated remedies only when they are really necessary.

One of the most popular shipper protection provisions is final offer arbitration. Final offer arbitration is a process for resolving disputes between shippers and carriers over rates and conditions of service. An independent arbitrator receives and evaluates the offers made by the shipper and the carrier and must select one of the offers. The arbitrator may not combine or vary the offers. The arbitrator's decision is binding on the parties.

There may be times when negotiations between a shipper and the railway are deadlocked. In a situation where a shipper has no alternative transportation available, deadlocked negotiations means accepting a rate imposed by the carrier.

When final offer arbitration is invoked, there is an incentive for the parties to make their respective offers reasonable since an arbitrator is unlikely to select an offer that is unreasonably high or low. This serves to narrow the differences between the positions of the parties and encourages a negotiated settlement.

There are indications that shippers frequently use the threat of referring a matter to final offer arbitration as leverage in rate negotiations with the carriers. The existing final offer arbitration provisions work well and are retained in Bill C-44, with some improvements to address shipper concerns.

Under Bill C-44, the services and charges covered by final offer arbitration would be expanded to include such things as fees for delays in unloading cars and fees for car cleaning. This is aimed at keeping total railway costs to shippers down. This proposal is obviously also popular with the shippers.

Moreover, under Bill C-44, final offer arbitration would also be made available to groups of shippers seeking common relief. This would lower the cost to individual shippers. It would also make it easier to use the remedy collectively for issues that affect more than one shipper within an industry or across industries.

Finally, there is the substantial commercial harm clause, section 27(2) of the CTA. Under the current legislation, the Canadian Transportation Agency must be satisfied that a shipper would suffer "substantial commercial harm" before imposing a regulated remedy with respect to a rate or service. There has been widespread criticism from shippers of the substantial commercial harm test, in particular, its focus on the shipper's financial and operating condition. Bill C-44 proposes dropping this test since it focuses on the shipper rather than on the behaviour of the carrier.

Honourable senators, some shippers have been calling for major regulatory reforms to increase railway competition. As the CTA review panel has found, there is no need for sweeping regulatory measures to raise the level of competition. The government's amendments proposed in Bill C-44 seek to build on the solid foundation provided by the CTA and not to dramatically alter its course.

A national railway network is essential to provide shippers with efficient and reliable access to domestic, continental and international markets. The current policy framework has helped foster the revitalization of the Canadian railway system, including the development of a shortline rail industry.

• (1510)

Canada's freight railways provide good service at low rates and without government subsidy within a competitive North American market. Shippers have effective regulatory tools to help improve their leverage in negotiations with railways and to minimize abuse of market power by railways.

Bill S-6 contains major policy changes with potentially significant implications that would require the most careful consideration. As I said when I began, running rights is a controversial issue that has been discussed extensively over the

last six years. Changes to the running rights provisions need to be carefully examined because of potential adverse impacts on railway investment, rail efficiencies, service to shippers, the degree of regulatory oversight required to address possible disputes between the host and guest railways, and shortline rail development.

I hope these comments will be useful to honourable senators when they consider Bill S-6 and, in due course, Bill C-44.

Honourable senators, I was born in Calgary and raised in Alberta. My age might indicate that I recall some of the views of people in my community that stem from the Great Depression. One of the stories that I was brought up with taught me that the railways were to blame, whether there had been hail, too much rain or lack of rain. Whatever happened to the agricultural producers of the Prairies, the line oft said was, "God damn the CPR."

On motion of Senator Banks, debate adjourned.

EXCISE TAX ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Keon, for the second reading of Bill C-259, to amend the Excise Tax Act (elimination of excise tax on jewellery).—(Honourable Senator Eggleton, P.C.)

Hon. Michael A. Meighen: Honourable senators, I rise to speak to Bill C-259, to amend the Excise Tax Act, and support the elimination of the excise tax on jewellery. The landscape was well covered by Senator Di Nino's excellent speech on June 23, 2005; however, I wish to add one or two comments on what third parties have said about this iniquitous tax and about the issue of fairness.

Senator Di Nino pointed out that the excise tax on jewellery dates back almost 90 years, to 1918. The tax belongs to another era. The excise tax on jewellery survives today as nothing more than a government cash grab that unfairly penalizes the jewellery industry, the mining industry, the northern territories and their people, and the Canadian consumer.

One third-party assessment, a December 2004 report written by Ernst & Young entitled, *Jewellery Excise: An Unfair Tax that Kills Jobs*, stated, in part, the following:

The 10 per cent excise tax on jewellery and watches, first introduced in 1918, has no place in a modern tax system: It destroys Canadian jobs by favouring imports over domestic manufacturers. It is an unfair tax on ordinary Canadians, with no legitimate policy rationale. It is complicated and expensive to administer, and prone to evasion.

That is quite a damning indictment.

The report continued:

...[this tax] encourages Canadians to travel to the United States and other countries to buy jewellery and bring it home tax free under the personal exemptions of up to \$750 after a one-week absence.

It's time for change. No other industrialized country in the world has a tax of this nature.

When the Goods and Services Tax replaced the outdated and harmful Manufacturer's Sales Tax, the Jewellery Excise Tax should have been eliminated as well.

The Federal Standing Committee on Finance endorsed the elimination of the excise tax on jewellery in 1996. This year, the Committee renewed its call for elimination.

The September 1996 Report of the Auditor General of Canada stated:

Officials of Revenue Canada...advised us that it is very difficult to apply the tax to all jewellery manufacturers who should be paying it.

...There is extensive evasion and avoidance of jewellery excise tax through underground activity.

Honourable senators, repealing the tax would increase business activities and, therefore, generate increased revenues for the federal government, which in turn would offset any loss of revenues from repealing the jewellery excise tax. The government collects roughly \$50 million per year from the excise tax on jewellery, which, compared to the 1996-97 fiscal year of \$140 billion, basically means that this excise tax on jewellery contributes 4/100 of one cent to every dollar of total revenue, thereby making it a virtually invisible source of revenue.

The excise tax has been established as hurting small businesses in a number of ways. It puts the industry at a competitive disadvantage compared to industries such as home electronics, clothing and entertainment, which do not have such a tax to pass on to the consumer. The tax also represents a burden for small businesses when it comes to financing inventory. When the government eliminated the federal sales tax with the introduction of the GST, the burden on inventory was eliminated. However, the jewellery industry still has to bear the weight of the excise tax, which is included in the price retailers pay to their suppliers and, therefore, remains locked up until the product is sold. With a very small turnover in jewellery stores, this represents an additional burden to the business owner. For example, an average retail store turns over its inventory in about 10 weeks. Jewellery stores do so only once per year.

Ernst & Young also pointed out that because jewellery is so easily concealed, it lends itself to smuggling. According to that study, cross-border shopping by Canadians into the U.S. is supposed to be so prevalent that it represents up to 15 per cent of depressed sales for Canadian jewellers.

The Canadian jewellery industry is made up of 5,000 companies, most of which are small, family-owned businesses that represent a \$1.2-billion industry employing over 40,000 Canadians. The luxury angle no longer washes. It simply does not apply. Consider that a \$10-pair of earrings and a \$100-wedding band are taxable but that a \$2,000-suit is not taxable on that basis. Where is the fairness in that, honourable senators?

The flaws in this tax make it prone to evasion and avoidance, which also results in loss of revenue for the government. The excise tax on jewellery has become an anachronism that no longer serves its intended purpose of financing the efforts of World War I, nor does it fulfill the qualities that should be required of a tax, namely, equity, efficacy, ease of administration and transparency.

Canada is now the only country with a growing industry in this field that continues with an inappropriately entitled "luxury tax." Australia and Russia, two of our most important diamond-producing competitors, have abolished their taxes recently. Lower- and middle-income households, those with less than \$90,000 per year, account for more than 50 per cent of jewellery and watch expenditures in Canada.

Honourable senators, repealing this tax would not amount to giving special treatment to the jewellery industry. Rather, it would level the playing field because other industrialized nations have done away with such a tax.

• (1520)

Phasing out this tax probably does more harm than good. The difficulties in administering the law would not disappear. The same expenses to administer the tax would remain, but the revenue stream would diminish with the phase-out.

Honourable senators, Bill C-259 was passed in the other place by a strong majority of 185 to 93. A luxury tax, I suggest to you, is a thing of the past. Why would we then phase it out? Let us throw it out and leave it where it belongs, on a Monopoly game board.

This is not a partisan issue. It is an issue about fairness. I urge your support for Bill C-259.

On motion of Senator Maheu, debate adjourned.

THE SENATE

MOTION TO URGE GOVERNMENT TO ALLEVIATE HIGH FUEL COSTS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton:

That the Senate urge the government to implement assistance through the tax system to ensure that excessive

fuel costs are not an impediment for Canadians travelling to and from their place of employment including a personal travel tax exemption of \$1,000;

That the Senate urge the government to take measures to ensure that rising residential heating costs do not unduly burden low and modest income earners this winter, and in winters to come;

That the Senate urge the government to encourage the use of public transit through the introduction of a tax deduction for monthly or annual transit passes; and

That a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.—(Honourable Senator Rompkey, P.C.)

Hon. Bill Rompkey (Deputy Leader of the Government): I understand that Senator Angus would like to participate in the debate. We would be agreeable to that.

Hon. W. David Angus: Honourable senators, I rise this afternoon to speak in support of my colleague Senator Kinsella's motion of October 25, whereby he seeks the support of this chamber to urge the government to implement assistance through the tax system to ensure that excessive gasoline costs are not an impediment for Canadians travelling to and from their places of employment; to take measures to ensure that the costs of residential heating do not unduly burden low- and modest-income earners; and to encourage a much greater use of public transit in Canada through the granting of a tax credit for monthly or annual transit passes.

First, honourable senators, let me acknowledge with pleasure that the upwardly spiralling fossil fuel costs seem to have levelled off modestly since the crisis of early last month. However, they still are at troublesome and near record high levels, and are having a dangerous inflationary effect on our economy generally which, in turn, is leading to higher interest rates and unplanned financial pressures on low-income Canadian consumers and on their retirement savings plans.

In my respectful view, honourable senators, this government needs to implement carefully thought out measures to ease the burden on Canadian taxpayers, especially but not exclusively those in low-income brackets.

I agree with Senator Kinsella that, to date, the government's response to these problems has been insufficient, ineffectual and disappointing. Bill C-66 has been shown to be totally inappropriate and, as Senator Kinsella pointed out, it amounts largely to pre-election rhetoric designed to permit a series of substance-lacking communications bullets and photo ops.

One is tempted, honourable senators, to ask, "Where's the beef?" However, I will refrain from such a partisan approach at this time as I earnestly consider the matters at issue to be serious economic ones with grave consequences and of a non-partisan interest to all Canadians.

I wish to focus on two kinds of consequences that will flow from Senator Kinsella's motion: those which encourage amendments to our tax system through creative fiscal policies; and those that will generate improvements in our environment and support our Kyoto initiative by encouraging more Canadians to use public transit, resulting in a substantial reduction in greenhouse gas emissions.

Honourable senators, I have come to the firm conclusion, through my work on the Standing Senate Committee on Banking, Trade, and Commerce and on the Standing Senate Committee on Energy, the Environment and Natural Resources, that an inordinate number of our nation's economic and environmental ills can be attributed to Canada's seriously outdated and now flawed tax system, which has not been significantly reviewed or overhauled in some 35 years.

We are constantly being told by experts that our present tax system is inequitable, imbalanced and impractical. Just a few moments ago, Senator Meighen spoke of how appropriate tax changes will encourage charitable giving, and he then rose to talk about the anachronism of the jewellery tax, which is still on the books.

The government, in successive budgets, has seemed oblivious to the gravity of the problem. Any fiscal tinkering it has suggested or implemented has been, for the most part, counterproductive and has led to negative consequences for the Canadian economy, for Canadian business and for consumers at large.

A good example of ineptitude and bad policy and procedure in this regard is the current market uproar surrounding income trusts. This is a device or vehicle which, good or bad, was created in the first place and became widespread precisely because of imbalance in the tax system — a series of high and punitive corporate and capital taxes, the whole combined with sustained and unusually low interest rates.

Witness after witness at both the Energy and Banking committees have told us, honourable senators, that Canada's tax system today inhibits productivity, economic growth and entrepreneurship in Canada. It has also led, we are told, to a worrisome brain drain of our best and brightest young Canadians to the U.S. and elsewhere.

In addition, we are advised by respected bodies like the OECD, the Bank of Canada and the Conference Board of Canada, as well as by Canada's Commissioner of the Environment and Sustainable Development, that, although we have all the necessary fiscal, economic and technical tools at our disposal to deal with climate change issues and our deteriorating environment, we simply do not use them. This is most troubling, especially to the green or environmentalist community, and to all of us here. It is certainly the case for those of us on the Standing Senate Committee on Energy, the Environment and Natural Resources, but I believe it should be frustrating and troubling to all of us here in the Senate.

As the Conference Board of Canada reported last month, there is a troubling element of complacency in the land today. Canada is not living up to its brand as a wealthy, environmentally responsible, socially conscious and healthy society.

• (1530)

In short, honourable senators, there is an urgent and pressing need for tax reform in the country. Whether it is small measures like providing a tax deduction or a credit for public transit use, or a personal travel tax exemption of \$1,000, as suggested by Senator Kinsella, to deal with hardship resulting from high fuel costs, or major changes like the reduction in corporate dividend and capital taxes, it is clear that tax change is needed now. In this way significant benefits can be achieved for all Canadians, not only as relief from high energy prices, but also including a higher standard of living due to increased productivity and a fairer, more equitable sharing of the fiscal burden among all businesses and individuals in Canada.

I am confident honourable senators will agree that it simply is not right for us as Canadians to see our nation in free fall — from being in the top five out of 30 OECD nations to the bottom 10 in a whole host of key economic and environmental score cards. We can and must do better.

That is why the Banking Committee has decided, on an urgent basis, to hold two to four days of hearings on the state of Canada's taxation system, with a view to determining from experts just how serious our fiscal problem is and what measures could reasonably be adopted in the short term to effect at least the most pressingly needed changes and improvements, and to set the stage for a more comprehensive reform of our tax system going forward. The Banking Committee expects to commence these hearings very soon, and I will commend them to the attention of all honourable senators.

In conclusion, one striking example of what can be accomplished in a simple, uncomplicated way is to be found in Senator Kinsella's suggestion of a tax credit for part of the cost of public transit passes. This idea is now an integral part of the Conservative Party's official policy platform. Implementation of this policy would allow commuters to deduct 16 per cent of the cost of their transit passes from their income taxes otherwise payable. At the same time, it would promote increased transit ridership and result in reduced road and highway traffic congestion, smog and greenhouse gas emissions.

We are told by Environment Canada that cars and trucks on our roads today are responsible for about 18 per cent of all greenhouse gas emissions in this country, amounting to more than 134 million tonnes of greenhouse gas released into the atmosphere every year in this country. By encouraging Canadians to use public transportation rather than fuel-consuming vehicles through a simple tax incentive, the government would achieve two goals: help to ease the transport costs for Canadians who would use this form of public transit and, on a larger scale, help us to meet our commitments under the Kyoto Protocol.

For these reasons, honourable senators, I urge you all to join with me in supporting Senator Kinsella's very thoughtful and sensitive motion.

On motion of Senator Rompkey, debate adjourned.

OFFICIAL LANGUAGES

COMMITTEE AUTHORIZED TO STUDY EFFECT OF RELOCATING FEDERAL DEPARTMENTS

On the Order:

Resuming debate on the motion of the Honourable Senator Tardif, seconded by the Honourable Senator Massicotte:

That the Standing Senate Committee on Official Languages study and report its recommendations to the Senate on the following no later than June 15, 2006:

- The relocation of federal department head offices from bilingual to unilingual regions and its effect on the employees' ability to work in the official language of their choice;
- 2. The measures that can be taken to prevent such relocations from adversely affecting the application of Part V of the Official Languages Act in these offices, and the relocated employees' ability to work in the official language of their choice.—(Honourable Senator Segal)

Hon. Hugh Segal: Honourable senators, I am delighted to stand in my place and express my support for the motion put forward by Senator Tardif with respect to a study to be undertaken by a committee of this house dealing with the rights of public servants who are associated with the decentralization of various departments, and the assurance that those rights are protected under the Official Languages Act of Canada.

[Translation]

Honourable senators, I am proud to affirm the Conservative Party's support for minority language rights as advanced by Jean-Robert Gauthier while he was a member of this chamber, and for Bill S-44 sponsored by Senator Ringuette concerning the guarantees in place to protect the rights of applicants to the Public Service of Canada.

I support all the efforts made by the Senate to increase bilingualism within the federal public administration and to increase the federal presence in the various regions of Canada. As a new senator, I feel that the Senate ought to be actively involved in doing everything it can to ensure that, should federal government offices be transferred outside the National Capital Region, or new ones established, the rights of all affected workers are respected. The Senate ought to also establish clear policies and directives on this for the federal government.

[English]

It was more than 30 years ago that the Royal Commission on Bilingualism and Biculturalism began its study to "inquire into and to report upon the existing state of bilingualism and biculturalism in Canada, and to recommend what steps should be taken to develop the Canadian Confederation on the basis of an equal partnership between the two founding races, taking into account the contribution made by other ethnic groups to the cultural enrichment of Canada and measures that should be taken to safeguard that contribution."

The work of that commission led to the Official Languages Act of 1969, part of the updates to this act in 1988, and through the hard work of Prime Minister Trudeau and premiers like Hatfield, Davis, Peckford, Lougheed, Bennett, and Senator Buchanan when he was the Premier of Nova Scotia, became part of the minority rights guarantee, the Constitution Act of 1982.

Continued study of official language policy in this country, including that recommended so competently by my colleague Senator Tardif in her motion to authorize the committee to study the effect of relocating federal departments, is an important part in the continued strengthening of bilingualism within the federal public service and across Canada.

[Translation]

The Official Languages Act recognizes English and French as the two official languages of Canada, and guarantees Canadians access to government services in both languages where numbers warrant.

I also agree that the matters raised in the motion concerning Canadians' language rights merit further study. The Senate could make a useful contribution to the preservation of linguistic duality everywhere in Canada.

[English]

Politicians and the public service should look at the decentralization of government as an opportunity. Our country is strengthened when the federal government is closer to the people they serve. A greater understanding of the realities faced by average Canadians in communities across this country—across the regions—would allow for greater inclusion, challenges and opportunities presented by our geography.

[Translation]

Canada offers great geographical diversity, with its numerous distinct regions and their specific interests.

[English]

As recently as last month, requirements for public service workers to live in the National Capital Region have been removed thanks to the efforts of our colleague from the other place, Conservative Member of Parliament Bill Casey. This is a good first step toward equality for people of all regions in employment opportunities within our national government. We now need to ensure that the language rights of those who could be moved out to other regions, especially those not designated as bilingual regions, are in fact protected under the act.

[Translation]

In economic terms, the government would do well to try to decentralize part of its operations to benefit other communities in the country, so long as it does so in keeping with the law and the rights of all employees and the public and in compliance with the Official Languages Act. This idea warrants serious study and consideration by Parliament.

[English]

This process could potentially allow the federal government to make a meaningful contribution with increasing employment in areas of the country where there is an economic downturn or recession, or where traditionally there are lower levels of employment. It could also increase the ethnic and demographic diversity of regions when the federal government is able to establish substantive operations outside the main cities.

Certain economies of scale can be better achieved by moving government agencies and services out to different regions. Local, skilled labour forces can be utilized, rent in smaller centres across Canada could be more cost effective, job opportunities for people who live in those regions can be increased, and the ability to use new and modern technology would eliminate the need for travel to Ottawa on a regular basis.

Benefits to the regions would be substantive. There would be an influx of educated and trained people into areas where they may not have settled previously, or potentially allowing more people to settle into areas where they were raised and increasing population and tax base capacity in those areas. Technology infrastructure would be greatly enhanced, contributing to a better educated and better trained workforce, who would greatly increase the prospects for a region's future.

• (1540)

Perhaps the most important benefit of potentially relocating federal departments outside the capital region is that it makes the federal government more relevant to the people it serves. Our country is strengthened when the federal government recognizes the realities faced by all Canadians, and not just those in the National Capital Region. Our democratic values are enhanced by the recognition that all Canadians are able to make a contribution to, and be part of, the system.

[Translation]

Some problems, such as Western alienation, could be lessened if the regions were given the opportunity to play a specific role in the operations of the federal government. The Canadian Tourism Commission's move to Vancouver sends a strong signal to the regions that they are trusted to manage federal departments. The motion under consideration concerns the protection of cultural and language rights within the context of this project.

[English]

This promotes an understanding of the cultural and linguistic needs of other communities and contributes to a greater understanding of and respect for national unity. The multicultural makeup of our country is an important legacy for which Canada is recognized around the world. Further study of how the Official Languages Act will operate and, perhaps, should be improved to facilitate this decentralization, is very much in the national interest.

[Translation]

Honourable senators, the number of francophone Canadians defined by their mother tongue continues to decline in relation to the Canadian population as a whole. The effects of this decline must be looked into. The arrival of francophone workers in undesignated regions could further understanding and acceptance of both official languages in regions not previously exposed to this phenomenon.

[English]

There are many examples of the successes of these programs being located outside the National Capital Region. I remember when the Government of Ontario moved the Ontario Health Insurance Corporation to Kingston — nobody died; the work continued; and the doctors' bills were paid. The City of Kingston was enriched by a substantive and wonderful workforce that represented every colour and race in the world who moved from Toronto, came to Kingston and offered an immense number of jobs to the local community. We should be doing that more and more wherever we can.

The strengthening of regions, the relationship of citizens to their government, the potential economic and employment opportunities for regions and cultural and language benefits are immense, but we must ensure that the statutory rights of public servants are protected when these events take place.

Following the best practice models employed by both successive private and public sector groups, we can create centres of excellence in many parts of the country by virtue of a decentralized government presence, locating agricultural departments in rural areas or at the University of Guelph, for example, as the Province of Ontario did. It is the largest post-secondary farming education facility in Canada, and locating it in Guelph was a logical choice. Locating the Department of Fisheries and Oceans and head office functions somewhere other than Ottawa would be of great value to the country.

[Translation]

I think it is vital to debate the questions inherent in this motion to ensure rigorous attention by the federal government to minority language rights and the entitlement of all Canadian federal public servants to work in the official language of their choice. I think it would be wise to evaluate the effects of this move on the communities involved. Canada's Official Languages Act offers, in my opinion, singular socio-economic benefits for all Canadians.

Like Senator Tardif, I consider this an important question. I support her motion to have the Standing Senate Committee on Official Languages study this motion seriously and make recommendations for the protection of the rights of all Canadians.

[English]

Honourable senators, it is an honour to make my second speech in this chamber, one in support of the motion of Senator Tardif. I commend to all honourable senators the notion of moving her motion on to committee at the earliest possible time.

Hon. Sharon Carstairs: Honourable senators, I would begin by thanking Senator Segal but, more important, to thank Senator Tardif for raising this matter in the Senate chamber. I will say only a few words on this subject, honourable senators, expressing my particular concern.

Honourable senators, I think we have all experienced, particularly in our dealing with younger children, how easy it is for them to learn a second language. We also have experienced, some of us personally, how difficult it is to learn a second language when we are much older. I am particularly concerned with respect to those public servants who have worked diligently to achieve bilingual status. However, I recognize now that, if they have done it as adults, their lack of opportunity to use that second language — if they are put in that situation — will quickly eliminate their ability to speak that second language.

Therefore, having worked so hard to do what I think we all should try to do, and having achieved that proficiency, by removing them from an area where they can speak both their languages to a unilingual area, would do them an enormous disservice. It would also do a great disservice to the public service.

Should those individuals then find themselves in the future being brought back to a bilingual district, they will no longer be proficient in their second language. As a result, their prospects for promotion may be somewhat diminished.

This is an excellent study for the Official Languages Committee. Once again, I congratulate Senator Tardif on her motion. I hope the members of the committee will take into particular consideration those public servants who, as adults, have become fluently bilingual.

[Translation]

Hon. Joan Fraser: Honourable senators, I support the motion of Senator Tardif and I commend her for moving it. There is no subject more appropriate to the Senate, with its concern for minority rights.

[English]

Like Senator Carstairs, I shall not speak long. I could not improve on Senator Segal's speech, even if I did speak long, so I will not try.

I did want to say that I think this is vital because, unless a careful watch is kept and careful rules are established, anything to do with minority rights falls off the table. That would not be out of malice, that is just the way things are. That is how institutions operate. It is always administratively easier, tidier, more efficient in a narrow dollars-and-cents way to say, "We need not worry about that. We'll serve the majority."

Decentralizing the operations of the Government of Canada would be a positive step. It would be good for the regions where employees are sent, and it would be good for the centre which would have to deal with those new people in the regions, remembering that the universe does not end one mile from this chamber where we speak.

However, even if we decentralize offices to bilingual regions, the natural tendency will be, unless great care is taken, for those institutions to operate in the majority language of the region. It is just the way it is. Thus, we will lose something that we have spent more than 30 years building. We will lose it within the public service, as Senator Carstairs suggests, and we will lose it for the people of Canada, for the minorities of Canada who have come to have faith that their government will serve them in their official language of choice. We cannot let that happen. We cannot let the one good goal of decentralization do a disservice to the other wonderful, constitutionally required goal of providing service in both official languages. This may take some adjustment to the Official Languages Act, but the Official Languages Act, like the Constitution, is a living tree, I expect. It can be fixed, if it needs to be, and I know that our Official Languages Committee is as well situated as any body anywhere to determine what would need to be done, the most efficient way to do it and the safeguards that should be established. Therefore, I strongly support this motion, and I urge all honourable senators to do so speedily.

• (1550)

Some Hon. Senators: Question!

[Translation]

Hon. Marcel Prud'homme: Honourable senators, it is not my intention to delay consideration of this important motion by the Standing Senate Committee on Official Languages.

There is a lot more to this than what has been said in this afternoon's excellent speeches. Other principles could enter into play and other precedents could be cited in the future. That is why we must be extremely prudent. I notice that the foreign affairs committee that I actively take part in has become increasingly unilingual English. We could also look at the progress made on this at the Department of Foreign Affairs. If there is one department that should reflect the image of Canada's duality, it is Foreign Affairs followed by International Trade.

After 40 years in Parliament, I see that things have improved somewhat. When I arrived, only one person at Foreign Affairs spoke Spanish, despite the fact that we live in the Americas. No one spoke Arabic. Now, there are 22 countries where the situation could blow up in our faces at any time. When things first started to heat up, no one knew the culture or the language, not even the Prime Minister in office back then. I would almost like to name him. It was not the Right Honourable Jean Chrétien, my friend; it was an even newer Prime Minister, who believed that Muslim meant "Arab", when God knows that there are 1.2 billion followers of the Muslim religion. That is why I urge my colleagues to keep themselves better informed. We cannot make generalizations.

Some young students who come to see me are planning a career in foreign affairs. Why wait until they join the labour market to suddenly realize that they are unilingual French-speakers? When I was an MP, I would invite groups to tour Parliament. Thousands of people came each year. I told them: Come see the Parliament of Canada, our house is your house! However, sometimes when people from my riding came and excitedly asked to see me, they were told: "Sorry, I don't speak French."

I have always encouraged my colleagues to try to put themselves in my shoes and imagine their guests arriving from Winnipeg, for example — it is a long trip for seniors to travel all the way from Winnipeg by bus — only to hear:

[English]

"Hello, I would just like to see my member, Mr. Axworthy," and to be answered as follows:

[Translation]

"I am sorry, we do not speak English." I have always tried to get everyone to understand the situation, but am I asking people for a miracle? Try to put yourself in the shoes of the people you are talking about. Try to get into the head, heart, mind, soul, of those you attack gleefully without doing anything. Just imagine for a minute you are on the other side of the fence. You will perhaps understand the feeling of those who are ill at ease in Canada, who think things would be better differently.

How many of us here could go and defend Canada anywhere in Quebec if there were a referendum? How many senators could say they would be comfortable in Chicoutimi? I am going to be pretentious and say that I have kept my roots. I can go anywhere in Quebec. Is it because I am an independent? Péquiste, Bloquiste, sovereignist, socialist or Maoist, I go because I believe we have to make a commitment. So it takes considerable sensitivity and that is why I am delighted with Senator Segal's speech.

[English]

For the third time in two days I am in agreement with Senator Segal. Some new development is taking place. He made a good speech.

I thank Senator Carstairs because she understands the difficulty.

I know it is four o'clock, so I will sit down. However, if Senator Corbin asks me to be present for the committee's hearings, I would be more than honoured and happy to be there.

The Hon. the Speaker: No senator rising to speak or adjourn the debate, are honourable senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

THE SENATE

MOTION TO URGE GOVERNMENT TO REDUCE CERTAIN REVENUES AND TARGET PORTION OF GOODS AND SERVICES TAX REVENUE FOR DEBT REDUCTION—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella seconded by the Honourable Senator Stratton:

That the Senate urge the government to reduce personal income taxes for low and modest income earners;

That the Senate urge the government to stop overcharging Canadian employees and reduce Employment Insurance rates so that annual program revenues will no longer substantially exceed annual program expenditures;

That the Senate urge the government in each budget henceforth to target an amount for debt reduction of not less than 2/7 of the net revenue expected to be raised by the federal Goods and Services Tax; and

That a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.—(Honourable Senator Day)

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, noting the time, the item has been called, and I will call the question.

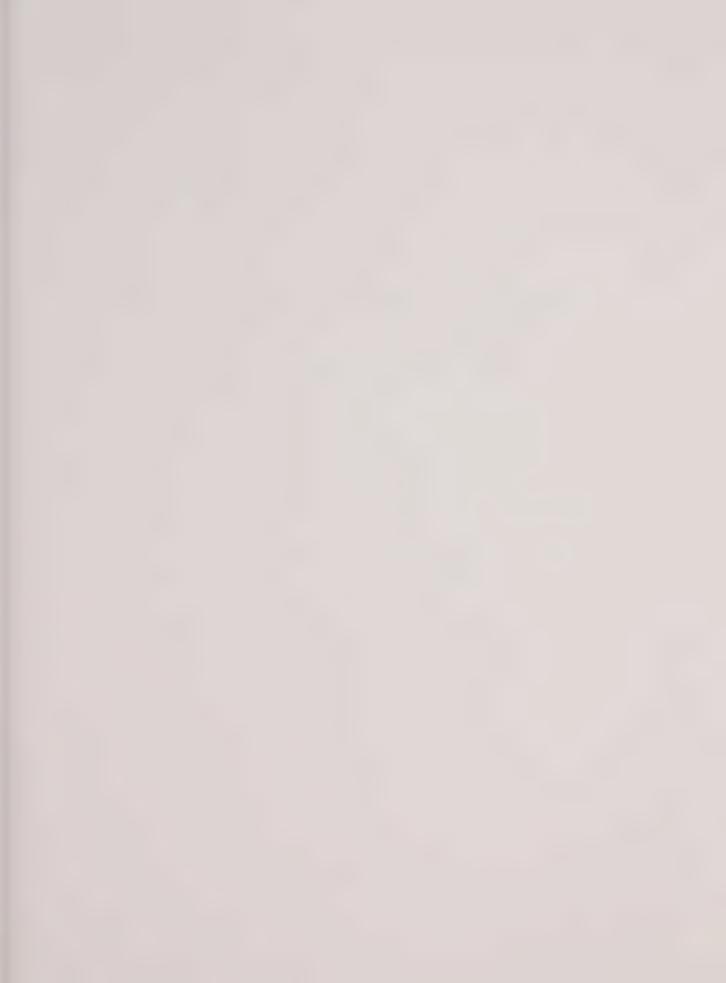
The Hon. the Speaker: We have been overtaken by time, honourable senators. This item will appear on the Order Paper again tomorrow.

The Senate adjourned until Thursday, November 3, 2005, at 1:30 p.m.

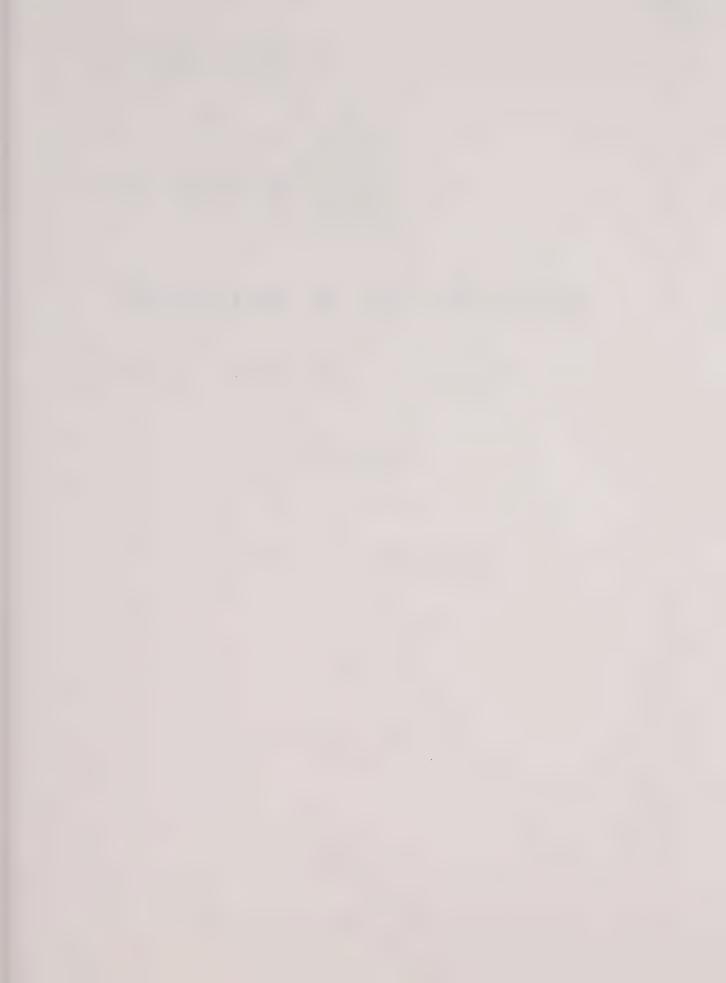
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Thursday, November 3, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193



THE SENATE

Thursday, November 3, 2005

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[Translation]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

November 3, 2005

Mr. Speaker,

I have the honour to inform you that the Right Honourable Michaëlle Jean, Governor General of Canada, will proceed to the Senate Chamber today, the 3rd day of November, 2005, at 3:45 p.m., for the purpose of giving Royal Assent to certain bills of law.

Yours sincerely,

Barbara Uteck Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

[English]

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, at this point, I would request leave for the Senate photographer to take photos of the Royal Assent ceremony from the south gallery. Is leave granted?

Hon. Hugh Segal: Honourable senators, I want to make sure that every senator will be given a chance to have one of those photographs in his or her office, at whatever the cost.

The Hon. the Speaker: I hesitate to give such an assurance, Senator Segal. Will the honourable senator accept my best efforts?

Senator Segal: I would be delighted to accept your best efforts, Your Honour.

The Hon. the Speaker: I will repeat, honourable senators, as some did not hear my comment. I am making a request on behalf of the Senate photographer for leave that he be permitted to take

photographs from the south gallery during the Royal Assent ceremony that will occur later today. I have noted Senator Segal's request. Is leave granted?

Hon. Senators: Agreed.

SENATORS' STATEMENTS

TRIBUTES

THE HONOURABLE LANDON PEARSON

The Hon. the Speaker: Honourable senators, I begin by advising that I have received, pursuant to rule 22(10), a request that time be provided for the purpose of paying tribute on the retirement of the Honourable Senator Landon Pearson. I would remind honourable senators that the time for tributes is 15 minutes; each senator will be allowed three minutes to speak, and no senator may speak more than once.

Hon. Jack Austin (Leader of the Government): Honourable senators, may I begin by saying that Senator Pearson is one of our colleagues who has given lustre to the Senate by becoming one of us.

Before the Honourable Landon Pearson was summoned to the Senate in 1994, she had earned a reputation for social justice that few achieve. This reputation is the result of having dedicated her life's work to creating an international awareness of the inherent nature of children's rights.

As the "Senator for Children," she has worked to provide a voice for children at all levels — local, federal and international. She is equally appreciated as the children's senator for providing opportunities to include children in decisions that directly affect them

Senator Pearson has been recognized as a human rights advocate in her own right and, additionally, as half — perhaps the better half — of one of Canada's pre-eminent partnerships. Her husband, Geoffrey, has had a distinguished career serving our country abroad, including the post of Ambassador to the Soviet Union, and domestically on matters of foreign affairs, for which he was invested as an Officer of the Order of Canada.

Senator Pearson has been a leading participant at countless meetings addressing the rights of children. Her work has earned wide acclaim in international arenas, and she was nominated one of nine Canadians as part of the 1,000 Women for the 2005 Nobel Prize.

Her lifelong advocacy work was recognized in 1996 with her designation as the first Advisor on Children's Rights to the Minister of Foreign Affairs, for which she headed a collaborative initiative that comprised 17 federal departments. In 1998, she co-chaired "Out from the Shadows: International Summit of Sexually Exploited Youth."

In 1999, the Right Honourable Jean Chrétien asked Senator Pearson to become his personal representative to the United Nations General Assembly Special Session on Children. Senator Pearson implemented an inspired decision to select young Canadians as delegation members of the First Substantive Session of the Preparatory Committee, a Canadian initiative that other countries have now adopted.

She served as co-chair of the Parliamentary Special Joint Committee on Child Custody and Access that produced For the Sake of Children, a report which interpreted the consequences of family breakdown from a new perspective, that of the children themselves.

• (1340)

She has also served as Deputy Chair of the Standing Senate Committee on Human Rights, which today will table an important interim report on Canada's international obligations in respect of the rights and freedoms of children. We look forward to her comments on that report this afternoon.

Senator Pearson has said that when one door closes another opens. She will continue her efforts in another venue, at Carleton University, with the establishment of a resource centre on childhood and children's rights. We wish her every success in an extraordinary career dedicated to improving the welfare of our next generation. Good luck, Senator Pearson.

Hon. A. Raynell Andreychuk: Honourable senators, I, too, rise to pay tribute to Senator Pearson but before I do, I would note that Geoffrey Pearson is in the gallery today. I met Geoffrey Pearson before I met Landon. Having worked with Landon for some 11 years, I thought I would set the record straight. While I found Geoffrey Pearson utterly charming with his acid wit and one-liners, it has taken 11 years, but I can assure this chamber that Landon is a match for Geoffrey.

As honourable senators know, 11 years has gone by quickly, but Senator Pearson's committed and dedicated career to children is much longer. Senator Pearson's passion is constant; it is persistent; and it is dogged. Her compassion and passion for children began, I strongly suspect, at birth. She is well-grounded in knowing who she is and her capabilities, and that speaks volumes about the right path that children must be set upon. To meet Landon's children is a work-in-progress of which Landon and Geoffrey should be rightly proud. Their children, and the "girl child" as Landon Pearson would say, are a tribute to this partnership that is so strong. Landon often speaks of it.

Senator Pearson's dedication to children is well-known, but why she has that dedication is not known. After working with her for some years on the Standing Senate Committee on Legal and Constitutional Affairs and then on the Standing Senate Committee on Human Rights where she was the deputy chair, I finally had the nerve to ask her why she has such dedication to children. She answered by saying that they are not much different from adults. In fact, I think that is her approach. She sees children as individuals. She treats children as individuals. She has time to listen to them, and she incorporates their point of view. Too often advocates speak on behalf of children. Having worked with Senator Pearson over the years, in my opinion children speak through Senator Pearson.

Senator Pearson's dedication to children's rights shows in her family, in her community and in her country. I was pleased that Landon's merits and strengths were recognized, not only by her own government and her own party, but also by the former Prime Minister, the Right Honourable Brian Mulroney, when he named her to be part of the Canadian delegation to the United Nations World Summit for Children held in 1990.

At that time, it was the largest ever gathering of world leaders, where Canada played an essential role in building support for the Convention on the Rights of the Child, which was ratified by Mr. Mulroney.

The Hon. the Speaker: I regret to inform the Honourable Senator Andreychuk that her three minutes have expired.

Hon. Sharon Carstairs: Honourable senators, September 15, 1994, was a banner day for at least three of us in this chamber when then Prime Minister Jean Chrétien named three women, Landon Pearson, Lise Bacon and me to the Senate of Canada. I knew the enormous political experience the former Deputy Premier of Quebec would bring to this chamber. However, I knew little of Landon Pearson, other than she had written Children of the Glasnost: Growing Up Soviet, which I loved, and that she was the daughter-in-law of our former Prime Minister, Lester "Mike" Pearson, and the wife of a distinguished diplomat, Geoffrey Pearson.

It did not take me long to learn what all of us in this place have learned: that here was a woman who was a most distinguished Canadian in her own right. Her passionate concern for children and their well-being, not only in Canada but also worldwide, resulted in significant accomplishments for these children. She has served as an inspiration to all of us. She has shown us that dedication to an issue in this chamber can have positive results. War-affected children, physically and sexually abused children, children as victims of pornography, and Aboriginal children have all benefited as a result of being subjected to the clear lenses of Landon Pearson. She is not someone who can rest easy when there is work to be done. She simply digs in and gets it done.

It has been a singular honour to know her and to have been touched by her and her causes. Rest assured, Landon, although you will soon leave this place, you will not be forgotten. More importantly, because I know it is of greater concern to you, your issues will not be forgotten, if for no other reason than you will remain physically close to us and continue your good work in Ottawa. We know that our phone lines will burn if we neglect those issues. However, I hope that you will be able to work a little less, enjoy even more those special children known as your grandchildren, and spend a few more days with your feet up at the cottage. In my mind, the beatitude that best suits Landon is: Blessed are the pure of heart, for they shall see God. Landon sees the world through the eyes of a child and, like them, she is indeed pure of heart.

Hon. Joyce Fairbairn: Honourable senators, throughout history there are times when the stars and the planets are aligned to produce spectacular events. I would say that one of those occasions was the day Landon Pearson was summoned to the Senate on September 15, 1994. Before and since that date, it is fair

to say that she has had a rollicking life, which has propelled her and this country into the vanguard of creating a structure of support to protect, encourage and challenge our most precious gift: the children of Canada and of the world. Clearly, for Landon and her husband Geoffrey Pearson, a distinguished diplomat, this interest was based on personal experience as they created a wonderful family of five children, followed by 11 grandchildren; and I hear that one more will arrive at any minute.

In addition, our colleague, with her sharp eyes and ears, clear mind, big heart, and a university background in philosophy and education, watched and learned and became vigorously involved in the activities of diplomatic life with Geoffrey. In over 35 years they moved to Paris, twice; Mexico; India; and served two diplomatic postings in the former Soviet Union. During the latter posting, Geoffrey served as ambassador. With the vigorous example of a father-in-law like Lester B. Pearson, it is little wonder that our colleague sought out a cause that is not only one of the most troublesome throughout the world but also the key element in the future success of all nations — the health, education and safety of our children.

In years following, Landon has used all her experience and knowledge to move this difficult and often tragic cause in every forum available to her. When she took her oath of office as a senator 11 years ago, she made a clear, personal commitment that the rights of children would be the centre of her activity in this chamber, in Senate committees on Aboriginal Peoples and on Human Rights, in the Special Joint Committee on Child Custody and Access, in Liberal caucus meetings and at every conceivable opportunity with government and parliamentary groups and associations. With vigour and determination she has represented former Prime Minister Jean Chrétien at the United Nations Special Session on Children. She is an adviser to our Foreign Minister on the United Nations Committee on the Rights of the Child. She has become Canada's children's senator. I know that her work will continue at Carleton University and for the rest of her life.

I thank you, Landon, from the bottom of my heart for your gift and your commitment. I wish you, Geoffrey and your family many happy, lively years together.

• (1350)

Hon. Joan Fraser: Honourable senators, when I was summoned to this place, one of my cousins said to me, with eyes shining, "You will get to work with Landon Pearson." I found that rather daunting. It had not occurred to me that I might be associated with such an eminent person. Within a couple of days of my arrival here, Landon Pearson found a moment to seek me out and make me feel welcome, and to give me a few well-chosen words of excellent advice.

Since then, we have not worked together as much as I would have wished, but we have worked together a bit, to my great profit. Like all senators, I have benefited from simply watching Landon. She is a true inspiration. She has taught so many of us what it means to be a good and effective senator, what it means to be a decent human being. She sets the standard. It is a standard

that most of us will not attain, but we know, because of her, at what we should be aiming.

Others have spoken of Senator Pearson's many accomplishments. There is one more that I would like to mention. She has a fine pen. Those who have not read her book Letters from Moscow, written when her husband was ambassador there, should do so.

Landon, in addition to Carleton University, family and all those other things, my hope is that you will now publish a book about your experiences in the Senate. That would be a wonderful thing.

Hon. Landon Pearson: Thank you so much, honourable senators. I am humbled and moved. It has been a great privilege to be here, to have had the opportunity to serve Canadians in the Senate and to count you all as colleagues.

With your permission, honourable senators, later this afternoon I hope to speak about children, my favourite subject, but now I want to focus on thanking you. I want to thank all who have spoken and all who have written to me on my retirement. I want to thank the wonderful staff of the Senate, from the security personnel to the table officers, from the interpreters to the technical staff and the pages, all of whom make us feel so welcome and are so fundamental to the success of our work.

In particular, I would like to thank my very special assistant, Yolande Arsenault, who has been with me since the beginning and whose exceptional capacities have ensured that the work we have done together is more than the sum of its parts.

Yolande is in the gallery today, along with my husband, my son, my daughter-in-law and my granddaughter, Maija.

Thank you to all.

Hon. Senators: Hear, hear!

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before proceeding to the remaining 15 minutes of Senators' Statements, I would also like to draw attention to the presence in our gallery of Senator Pearson's husband, Geoffrey Pearson, her son Michael and the other members of the family that she identified.

To each and every one of you, welcome to the Senate on this special occasion.

Hon. Senators: Hear, hear!

The Hon. the Speaker: As well I see in the gallery, and draw your attention to his presence, our former colleague the Honourable Douglas Roche.

Welcome back.

Hon. Senators: Hear, hear!

YEAR OF THE VETERAN

TRIBUTE TO REAR-ADMIRAL DESMOND WILLIAM "DEBBIE" PIERS

Hon. J. Michael Forrestall: Senator Pearson, as the only person in this chamber who served under your father-in-law, I, too, wish to congratulate you on your contributions to Canadians over the years.

Honourable senators, I rise today to say a few words with respect to those who have fallen for our freedom and our country. I want to pay tribute to all veterans, particularly as we draw near the end of the Year of the Veteran. Many things have happened that will enable us to remember the contribution these men and women have made, but I remind honourable senators that there is much more to be done with respect to their health. I look forward to the leadership of Senator Meighen, Senator Day and others on the Subcommittee on Veterans Affairs. They have had a very active agenda on behalf of veterans over the past year.

I was saddened, as will be many others in the chamber, to learn today of the loss of Rear-Admiral Desmond William "Debbie" Piers who passed away yesterday. He was one of Canada's most distinguished war heroes who, through the mercy of God, died peacefully Tuesday at South Shore Regional Hospital in Bridgewater, Nova Scotia, at the ripe age of 92.

Rear-Admiral Piers was a great man. He was a sailor from Halifax, where he was born on June 12, 1913. He entered the Royal Canadian Navy in the year and month of my birth, September 1932, as a cadet at the Royal Military College. He was only 28 when he commanded HMCS Restigouche and only 30 when, in 1944, he commanded HMCS Algonquin, for which two years ago he received from the French government and the people of France the Legion of Honour.

Rear-Admiral Piers was a sailor, a leader of men and an activist. He remained those things after he retired from the navy. He became Agent General in the United Kingdom and Europe from 1977 to 1979 and continued voluntarily taking up areas of responsibility throughout his native province and with the Canadian military.

His passing brings to mind some of the veterans we honour today and do not single out nearly as often as we do our soldiers. I speak of Rear-Admiral Pier's passing because he represented the navy, the senior service of our distinguished country. His loss will be regretted, but his life, rest assured, will be celebrated.

• (1400)

REMEMBRANCE DAY

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, Remembrance Day, November 11, 2005, will take place prior to our return to this chamber. Therefore, on behalf of the official opposition in the Senate, I wish to pay tribute to the men and women of the Canadian Forces who have fallen during times of war and conflict in the struggle against tyranny and evil.

In a special way, we will remember the more than 100,000 Canadians who went overseas to fight on behalf of their country but never returned home. They were mostly young, often in their teens, and each one was someone's child, friend or

neighbour. The ultimate sacrifice of these Canadians meant that they were never given the opportunity to accomplish all of their goals or to watch their families grow and change. Their lives, instead, have been given new meaning, through their death, and for this we owe them our everlasting gratitude.

This Remembrance Day, honourable senators, as is the case every year, Canadians will gather at cenotaphs in each province and territory to pay homage to the fallen. Those who gather may reflect upon all that might have been if these young people had been graced with a full life. We will never know how the personal and professional contributions of the fallen might have changed our country in ways both big and small.

The New Testament tells us that there is no greater love than this — to lay down one's life for another. On Remembrance Day, we honour the thousands of Canadians throughout our history who have laid down their lives in defiance of brutality and oppression so that we might live in the peace that we enjoy today. They did not fall in vain.

[Translation]

THE HONOURABLE LANDON PEARSON

TRIBUTE ON RETIREMENT

Hon. Pierre De Bané: Honourable senators, I want to pay tribute to our colleague, the honourable Senator Landon Pearson, who is turning 75 on November 16.

[English]

As we all know, 75 is the age at which we must all leave this place. In the case of Senator Pearson, I know that it will not be the end of her interest in the cause to which she has committed her public life — that is, the rights of children.

[Translation]

When Senator Pearson was appointed to the Senate in 1994, she was already a very well known defender of children's rights. In 1974, she helped set up a preventive program for children's mental health for the Ottawa school board.

In 1979, she made a significant contribution as vice-president of the Canadian Commission for the International Year of the Child and as editor of the commission's report. Many of the recommendations in the report were subsequently implemented.

In 1990, she published a book called *Children of Glasnost*, on the lives of children in the Soviet Union.

[English]

After Landon Pearson was named to this place, she built on her reputation and became known as the senator for children's rights. She became an adviser to the Minister of Foreign Affairs on children's rights. In 2001, she was named the personal representative of the Prime Minister of our country to the Special Session on Children of the United Nations General Assembly.

[Translation]

In 1998, she co-chaired the International Summit of Sexually Exploited Youth, which brought together 54 youth delegates from Canada, the United States and Latin America. She also chaired a federal committee against the commercial sexual exploitation of children and youth.

In Parliament, Senator Pearson co-chaired the Special Joint Committee on Child Custody and Access. She recently co-chaired the Standing Senate Committee on Human Rights, which has just released a report on Canada's international obligations to the rights and freedoms of children. What an appropriate way to round out her Senate career.

[English]

This is only a fraction of the many endeavours Senator Pearson has undertaken on behalf of children here in Parliament and with many charities, academic institutions and non-governmental organizations.

The Hon. the Speaker: Senator De Bané, I regret to inform you that your time has expired.

MINISTER RESPONSIBLE FOR DEMOCRATIC RENEWAL

INVOLVEMENT IN GOVERNMENT PRESS CONFERENCES ON COMMISSION OF INQUIRY INTO THE SPONSORSHIP PROGRAM AND ADVERTISING ACTIVITIES

Hon. Marjory LeBreton: Honourable senators, when Prime Minister Martin unveiled his newest acquisition, on May 17, in front of a media that could not contain their cynical laughter when the Prime Minister said that it had nothing to do with the looming confidence vote, the accompanying press release announcing Belinda Stronach's appointment to the cabinet said:

In addition, Ms. Stronach will assume responsibilities for democratic renewal and will help guide the implementation of the recommendations that flow from the Gomery Commission's final report.

On Monday night, with their advance copy of the Gomery report, the Prime Minister met with Transport Minister Jean Lapierre, Treasury Board President Reg Alcock, Public Works Minister Scott Brison, Deputy Prime Minister Anne McLellan, Justice Minister Irwin Cotler, Tony Valeri, the government leader in the other place, and Senator Austin, the government leader in this place, to map out the government's spin. Belinda Stronach was conspicuous by her absence.

Mr. Lapierre, Mr. Alcock and Mr. Brison all stepped up to the microphones immediately after the report was tabled to dutifully deliver the said spin lines, but again Ms. Stronach was nowhere to be seen. In addition, Ms. Stronach was not one of the ministers who escorted the Prime Minister to his press conference.

Honourable senators, is it not peculiar that Belinda Stronach, who was supposed to be responsible for this file, was not in the loop on Monday night and was not part of the government's

response in the hours following the release of the report? As one who once believed that Ms. Stronach had something to contribute to the political process, I now find myself thinking that it must be difficult for her to come to the realization that her service to the Liberal Party has been fully exploited and she has been cast aside.

As a long-time advocate of more women in politics, this is indeed a setback. As well, the Prime Minister's "belittling of Belinda" performance at the recent Parliamentary Press Gallery dinner sadly underscores the point.

COMMISSION OF INQUIRY INTO THE SPONSORSHIP PROGRAM AND ADVERTISING ACTIVITIES

REFLECTION ON POLITICIANS

Hon. Consiglio Di Nino: Honourable senators, I wish, first, to associate myself with the comments made about Senator Pearson by everyone, and I extend my warmest wishes to her.

Honourable senators, November 1 was a dark day for the Parliament of Canada. Justice John Gomery confirmed in no uncertain terms our worst fears about the abuse of power and high-level disregard of fundamental principles of accountability, honesty, integrity and responsibility.

To be called a thief on national television must be the lowest point for a politician. While I was not personally called a thief, for I am not — and neither was any one of you, for you are not — to many Canadians, we were all implicated in the deeds described in Justice Gomery's report. The Liberal Party may have been named, but we are, in the minds of Canadians, all guilty. Our reputations have been tarnished.

Over the next few weeks, I hope that we will engage in debate about the contents of the Gomery report and about how to avoid the recurrence of the litany of unacceptable actions of too many, in and out of Parliament, all of whom should have known better.

Honourable senators, I wish to put on the record my disappointment at Parliament not being more vigilant in its responsibility to safeguard the public interest. Let me cite a few examples: We should be able to investigate people who perpetrate the acts described by Justice Gomery; however, because of laws passed in Parliament, we cannot. We must review these laws. We are now debating Bill C-11, the disclosure protection act. We must ask ourselves if changes need to be made in light of the Gomery report. The conspiracy of silence, with one courageous exception, is unacceptable.

In his report on the election last year, the Chief Electoral Officer asked for power to investigate wrongdoing going back 10 years so that he could uncover abuses such as those that characterized the sponsorship program even if the story does not surface until years later. We need to give him this power.

Honourable senators, this is not the first time a scandal has rocked Parliament and I doubt it will be the last. If we do not correct the problems uncovered by the Gomery inquiry, then we must share responsibility for future abuses and scandals.

[Translation]

THE HONOURABLE LANDON PEARSON

TRIBUTE ON RETIREMENT

Hon. Rose-Marie Losier-Cool: Honourable senators, today I want to pay a very personal tribute to a colleague whom we all greatly admire and who is one of my mentors.

When I arrived in the Senate in March 1995, the honourable Senator Pearson introduced me to the women's caucus, a forum where we discuss issues near and dear to us. In passing, Senator Pearson is still the deputy chair of this caucus.

• (1410)

She introduced me to the Cairo Consensus, the 1994 International Conference on Population and Development. She put me on a path that led me to the Canada-Africa Parliamentary Association and the Canadian Association of Parliamentarians on Population and Development, which I co-founded in 1998 with Jean Augustine.

The senator for children's rights has always amazed me. In all the years I have known her, both here and elsewhere, I have appreciated her endless knowledge, her tenacity and her iron hand in a velvet glove. I am thinking, in particular, of her diplomacy and firmness as co-chair of the Special Joint Committee on Child Custody and Access, whose work I have followed with great interest.

I am forever grateful to her for helping and teaching me so much. I will never forget how nice it was to savour a Scotch together occasionally at the end of the day. I feel privileged to have known Senator Pearson. If she ever decides to invite me to a birthday party with her grandchildren, it would give me great pleasure to introduce her to my little Clara-Rose.

[English]

ROUTINE PROCEEDINGS

STUDY ON INTERNATIONAL OBLIGATIONS REGARDING CHILDREN'S RIGHTS AND FREEDOMS

INTERIM REPORT OF HUMAN RIGHTS COMMITTEE TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to tablean interim report on the study by the Standing Senate Committee on Human Rights on Canada's international obligations in regard to the rights and freedoms of children, entitled: Who's in Charge Here? Effective implementation of Canada's international obligations with respect to the rights of children.

On motion of Senator Andreychuk, report placed on Orders of the Day for consideration later this day. [Translation]

CANADA-JAPAN INTERPARLIAMENTARY GROUP

MEETING OF INTER-PARLIAMENTARIANS FOR SOCIAL SERVICE, SECOND GENERAL ASSEMBLY, AUGUST 24-28, 2005—REPORT TABLED

Hon. Marie-P. Poulin: Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian delegation of the Canada-Japan Interparliamentary Group concerning its participation in the second general assembly of Inter-Parliamentarians for Social Service, held in Seoul, Korea, from August 24 to 28, 2005.

[English]

THE SENATE

NOTICE OF MOTION TO EXTEND GREETINGS AND BEST WISHES TO MEMBERS OF ARMED FORCES

Hon. Consiglio Di Nino: Honourable senators, I give notice that on Tuesday, November 15, 2005, I will move:

That the Senate extend greetings and best wishes to the members of the Canadian Forces for their invaluable contribution to international peace and security;

That the Senate offer praise in particular to the brave group of men and women serving in Afghanistan, a dangerous and difficult mission, but one which is improving the lives of millions of Afghans and directly contributing to the safety and security of all Canadians; and

That a message be sent to the House of Commons requesting the House to unite with the Senate for the above purpose.

ACCOUNTABILITY OF GOVERNMENT

NOTICE OF INQUIRY

Hon. Consiglio Di Nino: Honourable senators, I give notice that on Tuesday, November 15, 2005, I shall call the attention of the Senate to:

- 1. the need to restore accountability to government;
- 2. the requirement for competency in government and the recent failings in this area of the current government;
- 3. the importance of governing with integrity and with a high standard of ethics;
- 4. the vital functions of both oversight and transparency in ensuring that the government operates efficiently and effectively in the best interests of the nation; and

5. the issues raised by the first Gomery report entitled "Who is Responsible?" and the measures that need to be taken and safeguards put in place so that no one will ever again have reason to write about events in our country, as Mr. Justice Gomery has just written:

The public trust in our system of government was subverted and betrayed, and Canadians were outraged, not only because public funds were wasted and misappropriated, but also because no one was held responsible or punished for misconduct.

QUESTION PERIOD

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

ALLEGED EXPOSURE OF TERRORIST CELL

Hon. J. Michael Forrestall: Honourable senators, it has been reported that an Al-Qaeda-related cell, the Salafist Group for Call and Combat, GSPC as it is known in the press, has now been busted in Toronto. This cell centred on bomb making and on a particular bomb maker. Thank God for the national press or we would know very little about the war on terror being waged by Canada.

Can the Leader of the Government in the Senate shed any light on this cell, its activities, and on the apprehension of its members? Why were Canadians not told? I keep asking for a system that advises Canadians that is reliable, trustworthy and does not mean that we have to wait until 10 o'clock at night to hear from the broadcasting centre of Canada: Mansbridge and *The National news*.

• (1420)

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no information to provide in answer to the question asked by Senator Forrestall with respect to the exposure of an alleged terrorist cell. However, I shall, of course, as usual, make inquiries and see what I can provide to Senator Forrestall in due course.

Senator Forrestall: The minister now has a couple of weeks in which to do that.

CITIZENSHIP AND IMMIGRATION

STATUS OF PEOPLE WITH TIES TO TERRORIST ORGANIZATIONS

Hon. J. Michael Forrestall: Honourable senators, this question has been in the back of my mind for several years now. The government has taken such a lacklustre approach, but an approach nevertheless, to expelling and transferring war criminals or suspected war criminals out of Canada for prosecution. Why is it that we allow people with known ties to terrorist organizations to retain their citizenship or refugee status to stay in Canada? Why is there a difference?

Hon. Jack Austin (Leader of the Government): Honourable senators, I do not at all agree that there is a lacklustre approach. This government is being vigilant. Senator Forrestall's previous question indicates that the responsible agencies are acting effectively.

With respect to so-called known ties, that is an assumption. We have judicial process in this country. Allegations have to be proven before legal action is taken against a Canadian citizen or someone with the right of residence in Canada.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

WATER QUALITY ON RESERVES

Hon. Gerry St. Germain: Honourable senators, in this question I wish to pay tribute to Senator Pearson and her work on children's rights and issues of that nature. I raise this today because yesterday representatives of the Boys & Girls Clubs of Canada were here in Ottawa, and they are concerned about our loss. What was interesting in this whole process is that it brings to mind that Senator Pearson's appointment was a non-partisan one; she was appointed for her good work on children's issues. The question I am about to ask should be treated in the same non-partisan way because it concerns our Aboriginal peoples.

As this chamber has heard, there are many other Aboriginal communities that live with unsafe water supplies. They have done so for years. About 100 First Nations communities are currently under boil-water advisories. Just one of those communities is in B.C., Senator Austin. I refer to a First Nation band on the northeast coast of Vancouver Island that has been using bottled water for eight years because salt water has contaminated their wells.

How much longer does the federal government expect that the people on that reserve and others living in the same situation will have to wait before they can turn on their taps to get safe drinking water, like most of the rest of us? Is there really a long-term plan to end this hideous third-world situation?

Hon. Jack Austin (Leader of the Government): Honourable senators, this government has applied itself to the water-quality issue on Aboriginal reserves, as I have said in answer to previous questions on this topic. The government had allocated \$1.6 billion to improving water quality over five years and has indicated that the program may be accelerated.

I cannot answer a question with respect to the reserve to which Senator St. Germain refers; however, I shall pursue the information.

Senator St. Germain: Honourable senators, I do not think that throwing money at the situation will do any good. There is a first ministers' draft for a 10-year plan to lift Aboriginals from this situation. Apparently, a communiqué is now being drafted. I am not sure if the government leader is aware of it.

A cartoon that appeared a couple of days ago in one of the newspapers depicting an airplane dropping bags of money over a native community is indicative of what has happened.

Honourable senators, this is not a question about enough money being directed at this particular file; it is a question of implementation, delivery and supervision of the dollars that are applied.

The honourable minister will know that there are plans to put another \$5 billion toward this issue. We must change the structures of delivery and implementation. One native group after the other has come before our committee and told us this. When will the Government of Canada make the necessary changes?

From a partisanship point of view, it does not matter who has been in government. The delivery and the implementation just has not been there. The will to do something different has been there, but it is the delivery and the implementation, my friend, that we are failing on. If we continue to do what we have always done, we will always get what we always got with our Aboriginal peoples. We have to make some changes.

Senator Austin: Honourable senators, Senator St. Germain pursued this topic earlier this week. I responded with information regarding the round table process.

For the first time in Canadian history, the Government of Canada is bringing the premiers of the 10 provinces and three territories together with Aboriginal leaders to discuss the crosscutting jurisdiction at the federal, provincial and municipal level that needs to be developed so that there can be a tri-level approach to deal with Aboriginal problems. This is one of the most complicated sets of issues. For example, with respect to education, the provinces have jurisdiction over the organization of the curriculum and service delivery. With respect to housing, there is a combination of regulations at the federal, provincial and municipal levels that has to be dealt with. With respect to health care, the federal government is responsible for providing health care programs but the provinces have much of the capital facilities and service capabilities.

All of these issues and more are being addressed in a process that began when Prime Minister Martin became Prime Minister. He has been the most aggressive of any federal leader in dealing with these issues.

It is very easy to be concerned, and I do not diminish that. I do not take second place to anyone in terms of concern with respect to the condition of the Aboriginal community. Nor do I take second place to anyone in terms of putting my personal time and effort into addressing Aboriginal issues.

I agree with one point that the Honourable Senator St. Germain makes, that is, the well-being of the Aboriginal peoples of this country should not be addressed through partisan, divisive and name-calling politics. The situation requires a concerted, national effort by all of us, to approach these problems and to ensure that there is the capacity to deal with them so that we may achieve our objective, which is clear, that there be no distinction or discrimination in the life condition of the Aboriginal people of this country.

Senator St. Germain: Honourable senators, I do not think in my question that I tried to diminish the minister's concerns or his sincerity regarding this whole process. If he interpreted it that way, he is absolutely wrong.

Perhaps I have been too combative in the past, which leads to the leader's reaction at the moment. On this issue, it is not a matter of being combative; it is a question of pleading with the government. The federal government has the lead role. On reserves, there is an obligation on the part of provincial governments to hook up services. The immediate problems are in the bailiwick of the federal government and the Department of Indian Affairs and Northern Development.

• (1430)

The Standing Senate Committee on Aboriginal Peoples prepared a report under the leadership of Senator Sibbeston. Several senators are part of the study. We have heard what is happening.

We asked about the round table process. In the opinion of some of the Aboriginal witnesses, that process is nothing more than just another meeting between that group of Aboriginals who generally come to Ottawa and politicians. As a matter of fact, a lot of our Aboriginal people think of them all as politicians.

That is why I am pleading that we look at the problem from a different perspective, so that we can not only put money towards it, but implement and deliver it.

[Translation]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

MOTION TO AMEND RULE 32— SPEAKING IN THE SENATE

Hon. Madeleine Plamondon: Honourable senators, my question is for the Leader of the Government in the Senate or the chair of the relevant committee. I would like to go back to the issue of interpretation in Inuktitut.

I asked this question some time ago, and I was promised a reply. I would like to know if there has been a follow-up on this issue and when we can expect a translation facility to be provided for our two colleagues. Is it a matter of costs, of budget?

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, the matter stands before a Senate committee. I cannot speak to the work of that committee on this particular topic. Perhaps the question could be addressed to the chair of that committee.

Hon. David P. Smith: A subcommittee of the Standing Committee on Rules, Procedures and the Rights of Parliament has been struck. Senator Joyal and I represent this side, and Senator Di Nino represents the opposition side. At a working meeting yesterday, we reviewed a number of things. I believe we are scheduled to meet the Wednesday after we resume.

We are trying to canvass all of those people who might on occasion take advantage of not just being able to speak Inuktitut but any Canadian Aboriginal language. We will be meeting with the Aboriginal caucus when we have that report.

We will recommend a trial run at some point, even before Christmas, it is hoped. We are making progress, and there does seem to be unanimous consensus to move in this direction.

Senator Plamondon: What difficulties are you encountering?

Senator Smith: They are not difficulties precisely. Early on, there was a consensus that we could not limit it just to Inuktitut. Sitting behind Senator Plamondon is a senator who has some ability to speak Cree, and there are other members of this place who speak other Aboriginal languages. We have broadened it to include any Aboriginal language.

First, what we have to do is determine what requirements we would need in terms of having interpreters standing by. We cannot have people on a payroll whose services would not be needed too often.

We are trying to figure out how much notice we need, whether it is two days or three days. There are translators in Ottawa who do this type of work, and we are trying to canvass them. In addition to that, there is also the concept of the physical installation of an extra interpretation booth and the wiring, et cetera. We had a full report with respect to that from staff as well.

These are the things on our check list of what we are trying to finalize, including of course what the budget for it would be.

Senator Plamondon: The demand originated when a senator had difficulty speaking French or English. The other senators who would like Cree, for example, have already mastered one of the two main languages, French or English.

Sitting in front of me here is a senator who has not mastered either French or English. You should start your trial with one who would understand.

Senator Smith: That is what we hope to do. I might say that I have never had any trouble understanding any point the honourable senator to which you refer wishes to make to me. He makes them quite clearly and quite forcibly, and I never have a problem.

Quite apart from that, there is a principle involved. The initiative came from a couple of senators for whom Inuktitut is their mother language. If we are to do something in that direction, to be fair, we should have a category. The category that was agreed upon was any Canadian Aboriginal language.

Senator Plamondon: It is not because we cannot do everything that we do nothing.

Hon. Marjory LeBreton: I wish to have something clarified by Senator Smith. After he talked about yesterday's meeting, he said he was going to take the matter up with the Aboriginal caucus. I am not aware of any Aboriginal caucus of the Senate. Can the honourable senator explain his statement, please?

Senator Smith: That is a fair point. My reference to the Aboriginal caucus was a slip of the tongue.

I meant any members of the Senate who have identified themselves as those who would be using this service. We know who those persons are. The clerk, Mr. Armitage, is undertaking to speak to each of them to try to get an estimate of when they think they might use it, on a weekly basis or a monthly basis or once a year. We are trying to get a feel for what the demand would be for this service. It is hard to have intelligent discussions without giving it some scope.

We are trying to define that as soon as possible. When the subcommittee I referred to has a consensus ad hoc report, we will meet with all those senators who would have some interest in using this service.

Senator LeBreton: When you used the term "Aboriginal caucus," were you simply referring to members of the Senate who happen to be Aboriginal? There is not a body specifically called the "Aboriginal caucus."

Senator Smith: That is a fair characterization. I apologize for any confusion.

VETERANS AFFAIRS

COMPENSATION TO ABORIGINAL VETERANS FOR UNEQUAL BENEFITS PACKAGE

Hon. Lillian Eva Dyck: My question is for the Leader of the Government in the Senate. I am addressing the issue of compensation for Canadians who have been treated unfairly by laws in the past.

On the one hand, there are the descendants of the Chinese Canadians who were subjected to the head tax and the Chinese Exclusion Act; on the other hand, there are Aboriginal veterans who received unfair compensation at the end of their military service. Today, I will direct my comments to the Aboriginal veterans.

Last week, a group of Aboriginal veterans flew to Belgium and France to pay their respects to their fallen comrades. While they were there, they conducted a spiritual ceremony to call back the spirits of their fallen comrades and take them back to Canada, to their home communities, along with their pipe carriers.

Attending some of the events were the Governor General, Michaëlle Jean, as well as the Minister of Veterans Affairs, both of whom paid tribute to the war efforts of our Aboriginal veterans. It has been stated apparently by some of the veterans that this tribute was long overdue, that although they are grateful for it, it was overdue.

I had the pleasure of meeting some of these veterans in the Toronto airport last week. I met Howard Anderson, who is from the Gordon First Nation in Saskatchewan — which is where I am from. We are related. I met Mr. George Horace from the Thunderchild First Nation near North Battleford.

• (1440)

I asked another gentleman, who is also an Aboriginal veteran, if they had received compensation yet for the unfair benefits compared to non-Aboriginal veterans and his answer to me was, no, they had not.

Since 2005 is the Year of the Veteran, surely the government should recognize the sacrifices made by, and the heroism exhibited by, our Aboriginal veterans, by compensating them fairly and in a timelier manner — that is to say, before any more of them reach the end of their lifespan and pass on. Why has the government not compensated Aboriginal veterans for the unequal and unfair benefits that they received?

Hon. Jack Austin (Leader of the Government): Honourable senators, the question that Senator Dyck puts to us touches the conscience of Canadians. It is a subject that the government has under active review, but it has taken a long time to come to the top of the agenda. Governments have come and gone since the Second World War and the Korean War, and this issue has not been properly addressed.

One step forward, as Senator Dyck recognizes, is the work of the Department of Veterans Affairs in making this special profile for Aboriginal veterans, which has taken place in the last few days. I spoke about Senator Gill representing the Senate and the Governor General also highlighting the role of Aboriginal people in the military during the Second World War and the Korean War.

I will make inquiries, honourable senators, as to the current state of the file. I know it is under consideration. Unfortunately I am not in a position to give the honourable senator an answer today, but I will try to do so very quickly.

Senator Dyck: The leader says that the file is under active review. I would question whether it is under active review because it has been decades. Perhaps some things have been done as political appearements, but to take action would be to actually compensate with the money.

Hon. A. Raynell Andreychuk: By way of a supplementary question, as honourable senators will recall, some 10 years ago the Aboriginal Affairs Committee in this Senate produced a report about Aboriginal veterans. One of the recommendations was to include Aboriginal veterans in all Remembrance Day services and all commemorations of the First and Second World Wars and the Korean conflict. While the leader has given tribute to the department, I think it would be helpful if he included and tracked what the standing Senate committee recommended. While the recommendation on commemorations was explicitly followed, and to good effect in the Aboriginal veterans community, the remaining recommendations are still outstanding and are in line with the issues that Senator Dyck has raised.

Senator Austin: Well said. The question was put to me in terms of the government, so I answered in terms of the government, but I am very happy to have Senator Andreychuk remind colleagues here of the work of the committee on which we both served.

Hon. Marcel Prud'homme: Honourable senators, while the government is reviewing matters, I would draw to your attention another report that created a lot of interest. I know, because I walked out of the hospital to attend that committee. In February 1998, our Subcommittee on Veterans Affairs was chaired by our very good friend Orville Phillips, who was then in the Senate. They partially addressed that question, which I am sure the leader's research will confirm. As a matter of fact, that is where I first met the Honourable Senator Chalifoux. She was a member of that subcommittee.

NATIONAL DEFENCE

GAGETOWN—TESTING OF AGENT ORANGE AND AGENT PURPLE

Hon. Norman K. Atkins: Honourable senators, in view of the evidence that is emerging with regard to the testing of Agent Orange in Camp Gagetown and the effect it has had not only on military personnel but on civilians in the area around Camp Gagetown, can the Leader of the Government tell me whether the government is considering any further research into the effects of dioxin, especially now when we know there are new technologies that might give us information that otherwise we have not had?

Hon. Jack Austin (Leader of the Government): Honourable senators, my information is that the government has under way a very aggressive program of trying to determine what took place and the consequences of the use of those herbicides at Canadian Forces Base Gagetown. It has employed independent third party experts to provide reports that will be made public.

FISHERIES AND OCEANS

NUNAVUT—CONSULTATION WITH STAKEHOLDERS ON NEW QUOTA

Hon. Willie Adams: Honourable senators, my question is to the Leader of the Government in the Senate. By way of background, right now we have a 4,000 tonne quota for the turbot fishery in Nunavut. I have received verbal concerns from Nunavut Tunngavik Incorporated and the Government of Nunavut regarding a letter from DFO to fisheries stakeholders. They are concerned that the actual Nunavut fisheries stakeholders have not been consulted on how the new 2,500 tonne quota will be allocated in Nunavut's OA turbot area. Could the minister tell me why Nunavut stakeholders, such as the Nunavut Wildlife Management Board, Baffin Fisheries Coalition, Qikiqtaaluk Corporation, Pangnirtung Fisheries, Cumberland Sound Fisheries and the community of Qikiktarjuaq, who are the real stakeholders, were not included in this list when they have invested so much in this developing industry? Makivik Corporation, according to the Nunavut Land Claims Agreement, automatically gets 5 per cent from quotas from OA and OB. Not one of those stakeholders from Nunavut received a letter from DFO, and they were sent out to the other stakeholders down in Newfoundland, Nova Scotia, P.E.I. New Brunswick and Quebec, as well as industry lobby groups. There should be some way to correct this situation so that the 2,500 tonnes go to Nunavut.

Hon. Jack Austin (Leader of the Government): Honourable senators, I will look into the issue with the hope that I can get back to Senator Adams very quickly.

• (1450)

I know that the letters were sent because it was part of a discussion I had with the Minister of Fisheries and Oceans, and I have heard separately that Nunavut Tunngavik Incorporated has said that its shareholders have not been consulted. The Nunavut fisheries stakeholders were not consulted on the new 2,500 tonne quota.

The best I can do at the moment is to find out what the situation is with respect to consultation, but I am told that the Nunavut Wildlife Management Board has undertaken to contact all of its stakeholders and then hold discussions with the Department of Fisheries and Oceans.

That is as much as I can report at the moment, but I will follow up.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting four delayed answers to oral questions raised in the Senate. The first is in response to an oral question raised on October 26 by Senator Tkachuk, concerning the Treasury Board Secretariat resources for departments to respond to access to information.

[Translation]

The second is in response to an oral question raised on October 27, 2005, by Senator Kinsella concerning the proposed liquified natural gas terminals in Maine. The third is in response to an oral question raised on October 26, 2005, by Senator Spivak concerning Bombardier's building of a plant in Mexico.

[English]

The fourth is in response to questions posed by Senator Murray on October 20, regarding the Mackenzie Valley Pipeline, progress of negotiations.

TREASURY BOARD

RESOURCES FOR DEPARTMENTS TO RESPOND TO ACCESS TO INFORMATION REQUESTS

(Response to question raised by Hon. David Tkachuk on October 26, 2005)

The Government is implementing a new funding and oversight mechanism for Agents of Parliament this fall. The Office of the Information Commissioner is included in the two-year pilot project.

The pilot project is intended to reflect the degree of independence of Agents of Parliament, the role of Parliament in budget and oversight matters, and the responsibility of the Government for the sound stewardship of public resources.

Parliamentary control and supervision of expenditure of public money would be strengthened by a new provision for a Parliamentary Oversight Panel to assess the Estimates of Agents of Parliament, including related financial and management performance. The Panel would aim to promote economy, efficiency and effectiveness in the funding and oversight of Agents of Parliament.

The Government's approach takes into consideration and is broadly consistent with the recommendations of the Standing Senate Committee on National Finance as well as recommendations of the Standing Committee on Public Accounts and the Standing Committee on Access to Information, Privacy and Ethics.

It is important to note that the allocation of resources within institutions is the responsibility of the head of each institution. Treasury Board Secretariat regularly receives input from departmental/agency ATIP offices on the status of their resources and provides advice on methods of improving efficiency and making effective use of these resources.

The Treasury Board Secretariat will continue to provide training and support to ATIP offices throughout government so that they may effectively respond to ATIP requests.

CANADA-UNITED STATES RELATIONS

MAINE—PROPOSED LIQUEFIED NATURAL GAS TERMINALS

(Response to question raised by Hon. Noël A. Kinsella on October 27, 2005)

The Government of Canada is planning to undertake a comprehensive risk assessment study to best be able to respond to the current LNG proposals.

Based on the finding of this study and the review of any application for an LNG terminal, the Government will consider making a submission to the United States approval process to address any concerns related to navigation safety and pollution prevention.

INDUSTRY

BOMBARDIER—BUILDING OF PLANT IN MEXICO

(Response to question raised by Hon. Mira Spivak on October 26, 2005)

Aerospace is a global industry in which all players are seeking ways to cut costs. Bombardier is a private company and must make those business decisions it feels are necessary in order to remain competitive.

The company's decision does not change the fact that Canada has one of the world's largest aerospace industries, and among the most skilled aerospace workforce.

The Government will be releasing a national strategy for the aerospace and defence industry in the near future. This strategy, which has included broad consultations with industry, labour, research institutions and the provinces, among others, outlines how Canada needs to move up the aerospace supply chain, and how the government will support the growth of this important sector of the economy.

We continue to be in regular contact with Bombardier, and are monitoring the situation closely.

NATURAL RESOURCES

MACKENZIE VALLEY PIPELINE— PROGRESS OF NEGOTIATIONS

(Response to questions raised by Hon. Lowell Murray on October 20, 2005)

1. On September 15, 2005, the Mackenzie Gas Project Proponents wrote to the National Energy Board to indicate that they required additional time to continue to advance further key matters, such as access and benefits and fiscal arrangements, prior to the start of hearings. The Proponents will advise the National Energy Board in November 2005 of their willingness to proceed to public hearings.

If the Proponents agree to move forward to the next phase at that time, it is anticipated that coordinated environmental assessment and regulatory public hearings will commence in early 2006.

With this in mind, the Government of Canada has already implemented a number of measures to help advance the Mackenzie Gas Project, including:

- A commitment of up to \$500 million to mitigate the socio-economic impacts of the planning and construction of the pipeline project on aboriginal communities;
- An agreement worth \$31.5 million with the Deh Cho First Nations which, among other things, will allow them to participate in the review process and explore economic opportunities related to the project; and
- Investments to facilitate a timely regulatory and environment response to the project.

These initiatives, as well as the ongoing work that is being undertaken by the Government of Canada, and other governments and organizations, reflect the commitment of all parties to facilitate progress on the Mackenzie Gas Project.

2. The Mackenzie Gas Project is a private commercial endeavour. The time lines for project advancement are the responsibility of the Proponents. The pace and scheduling of regulatory and commercial activities is also dictated by the Proponents. Governments have reviewed the regulatory

framework and have developed a Cooperation Plan to ensure that the project is reviewed in a timely matter. At this time, regulatory authorities are preparing for detailed regulatory hearings.

When the proponents made their announcement in April 2005 to re-profile activities, they presented a "list of outstanding issues" to the Government of Canada. The Government of Canada has made significant progress in a number of areas on this list and continues to work towards the resolution of the remaining issues within its purview such as the fiscal regime that will apply to the project.

On September 15, 2005, the Mackenzie Gas Project proponents announced that they were encouraged by the progress that had been achieved to date and indicated that they would be making a decision on whether or not to proceed to regulatory hearings. The Proponents have stated they will advise the National Energy Board in November 2005 of their willingness to proceed to public hearings.

3. Government engagement to date is based on the belief that the project can bring significant benefits to Canadians, in particular Northerners and aboriginal people.

As a responsible steward of taxpayers' money, the Government of Canada has an obligation to ensure that public funds are spent in the best interests of all Canadians. The Government of Canada will not provide direct subsidies to support the construction of the Mackenzie Gas Pipeline Project. The Government, however, is willing to consider alternatives that will help move the project forward in a manner that is in the best interests of the people of Canada.

[Translation]

SPIRIT DRINKS TRADE BILL

MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-38, respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign countries, and acquainting the Senate that they have passed this bill without amendment.

[English]

NATIONAL PHILANTHROPY DAY BILL

FIRST READING

Leave having been given to revert to Introduction and First Reading of Senate Public Bills:

Hon. Jerahmiel S. Grafstein: Honourable senators, I have the honour to present Bill S-46, respecting a National Philanthropy Day.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Grafstein, bill placed on the Orders of the Day for second reading two days hence.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

COMMITTEES AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of November 2, 2004, moved:

That, pursuant to rule 95(3), during the period Monday, November 14 to Monday, November 21, 2005 inclusive, the committees of the Senate be authorized to meet even though the Senate may then be adjourned for a period exceeding a week.

Motion agreed to.

Senator Rompkey: Honourable senators, I wonder if I could have leave to call forward the human rights report submitted earlier today by Senator Andreychuk, so that both she and Senator Pearson can speak to it this afternoon. We are looking forward to hearing them.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

STUDY ON INTERNATIONAL OBLIGATIONS REGARDING CHILDREN'S RIGHTS AND FREEDOMS

INTERIM REPORT OF HUMAN RIGHTS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the nineteenth report (interim) of the Standing Senate Committee on Human Rights, entitled: Who's in Charge Here? Effective Implementation of Canada's International Obligations with Respect to the Rights of Children, tabled in the Senate earlier this day.

Hon. A. Raynell Andreychuk: Honourable senators, in November 2004, when the Standing Senate Committee on Human Rights embarked on its study of Canada's international obligations in relation to the rights and freedoms of children, its goal was to examine how Canada could maximize the impact and application of the United Nations Convention on the Rights of the Child on behalf of Canadian children.

As yet, there have been very few comprehensive studies of this issue, and little parliamentary attention. In response to this need,

our committee examined whether Canadian policy and legislation reflect the provisions of the international human rights instruments and whether this country is in compliance with its international obligations.

We also looked at the role of Parliament within this framework. Our committee sought to answer the following questions: Is Canada implementing the Convention on the Rights of the Child in domestic law and policy and, if so, how? Are Canadian society and the federal government responding to the needs of today's children? Ultimately, we approached this project as a case study; reflecting the broader implications of ensuring that domestic legislation complies with Canada's international human rights obligations and in keeping with the broader mandate that began with this committee's first report, *Promises to Keep: Implementing Canada's Human Rights Obligations*.

At this time, honourable senators, I want to go on record to indicate that our clerk, our researchers and all the staff involved, including pages, translators and others committed to this study, were keenly, personally involved in children's rights, from the many comments that they made to us during this study.

I want to pay tribute again to Senator Pearson. If it was not for her tenacity and willingness to put her own ego aside to allow all of us to have a chance to say what we wanted to say on the issue of rights and to find a way of pushing us constantly forward to the target of doing more for children, I do not believe this report would have come to fruition today. Her understanding and advocacy in the NGO community should be commended. Time and again, the information provided by her contacts allowed us to substantiate many of the questions that were raised.

Senator Pearson's 20 to 30 years of hard work are paying off. We thank her for her dedication and continued involvement with Carleton University and the centre that is being named after her. We congratulate her on her continuing good work there.

I also want to note that ours was a unique committee in that member had a special expertise in children. Often we find two or three senators who come together with a similar interest and direction. To my delight, every senator had a different perspective and expertise, and they gave willingly of that expertise and direction. I believe it will find its way into the final report.

During this study, our committee heard from government and academic witnesses as well as those representing children's rights advocacy organizations across Canada with respect to Canada's implementation of the convention. We were also blessed to have children come forward and put forth their perspectives, and we intend to continue that direct contact.

• (1500)

We supplemented the evidence and recommendations of our witnesses with two fact-finding missions. We gathered information from various UN and international organizations in Geneva, including the Committee on the Rights of the Child. We were given examples of how the convention operates in such like-minded states as Sweden, Norway and the United Kingdom. We also heard from young people in Atlantic Canada and abroad as to their perspectives on the Convention on the Rights of the Child and its impact on their lives.

In June 2005, our committee began the first in a series of hearings across Canada to gain a much needed perspective from provincial government officials, provincial ombudsmen, non-profit service organizations and children. Beginning in Atlantic Canada — St. John's, Fredericton, Charlottetown and Halifax — we met with officials to discuss current provincial laws, how these laws are being implemented, various concerns surrounding children's rights, awareness of the convention and children's rights, and how children are affected by laws and policies at the municipal, provincial and federal levels.

In the course of our study, our committee became increasingly convinced that, both in theory and in practice, children's rights in this country are not understood or assured. Indeed, we noted a lack of awareness in government and among children and the general public about the convention and the rights enshrined in it as one of the hallmarks of our study.

In government, even among those dedicated to protecting children's rights, knowledge of the convention is spotty at best. However, as was repeatedly emphasized by witnesses both in Canada and elsewhere, children are citizens with rights and must be recognized so as to foster a culture of respect and of rights and responsibilities in this country. As it stands, children are often talked about but rarely listened to when legislation or institutional public policy is being made. Yet, if we care about children, we must ensure their rights so that they can learn how to balance these rights with their responsibilities, fostering future citizenship and involvement.

The first step in this direction is recognition of the rights-based approach as a valid underlying philosophy. In order to focus on the particular vulnerabilities of children and to ensure the fulfilled and meaningful maturation of their rights, the rights-based perspective contained in the Convention on the Rights of the Child must be clarified in Canada and elsewhere. Children today are persons with rights of their own that the state in which they live must fully respect and protect.

The Honourable Senator Pearson, our deputy chair, will address these rights more fully, I am sure, in her upcoming remarks. Consequently, I will focus my comments on the more general issue of the implementation of the Convention on the Rights of the Child and other international human rights treaties in Canada.

One fact made clear to our committee throughout its hearings was that the primary obstacle to effective protection of children's rights in Canada is implementation of the convention. As our committee began to discover during its hearings leading up to our report, Promises to Keep: Implementing Canada's Human Rights Obligations, Canada's current ratification and incorporation process for international human rights treaties is inefficient and ineffective. Neither conclusive nor transparent, the mechanisms currently in place only occasionally lead to real compliance. No body has ultimate responsibility for ensuring that international human rights conventions are effectively implemented in Canada.

Our hearings surrounding the Convention on the Rights of the Child have demonstrated that a democratic deficit exists, and that the public at large, as well as the most affected stakeholders, are often unaware of relevant treaties and the rights contained in them.

In Canada, international human rights treaties are rarely incorporated directly into Canadian law, but are indirectly implemented by ensuring that pre-existing legislation is in conformity with the obligations accepted in a particular convention. The difficulty with this is that the government negotiates the treaties, signs the treaties and comments as the exclusive voice on conformity in Canada. Other actors are asking for a say.

Parliament plays no role in ratification; thus international human rights treaties that are not directly incorporated into domestic legislation bypass the parliamentary process. In accordance with this policy-based approach to international human rights, the federal government currently deems the Convention on the Rights of the Child to be implemented in Canada by means of the Canadian Charter of Rights and Freedoms, federal and provincial human rights legislation, and other federal and provincial legislation pertaining to matters addressed in the convention. In essence, the government relies on pre-existing laws, using existing mechanisms and applying the convention through them, rather than relying on specific legislation to ensure that children's rights recognized under the convention are respected across the board.

Witnesses appearing before our committee expressed a number of concerns in response to this approach to implementing international human rights treaties. They expressed uncertainty as to whether this unwillingness to directly incorporate international human rights treaties can be truly termed explicit compliance, and urged us to find ways to expressly implement the terms of the convention.

These concerns led our committee to ask whether pointing to the Charter and various human rights and other legislation is sufficient to ensure compliance with the convention, given the specific nature of the rights pertaining to children laid out within it. Without ensuring that the explicit language used in the convention is replicated in Canada's laws, how can we be sure that children's rights are actually enforceable, or that Canada is in full compliance with the convention?

Ultimately, Canada has an obligation to make best efforts to implement international treaties domestically, no matter what jurisdictional hurdles are entrenched in the Constitution.

Witnesses also expressed concern with respect to the democratic deficit and the complexity of the reporting and follow-up process with the United Nations Committee on the Rights of the Child. What is lacking is real political involvement in the process, either at the ministerial or parliamentary level. It was pointed out that effectively addressing such issues lies at the heart of a functioning democracy.

This democratic deficit — which is only increased by the lack of transparency inherent in the current system, either through awareness raising or public input — led our committee to the conclusion that Canada's current reporting process and follow-up mechanisms, in terms of the Convention on the Rights of the Child and with respect to other conventions, was wholly inadequate.

Months of testimony, complemented by the observations, criticism and recommendations of the United Nations Committee on the Rights of the Child, have convinced us of the inadequacy of Canada's approach to implementing the Convention on the Rights of the Child and, by extension, other international human rights treaties more generally.

Based on what we heard, our committee has developed a number of proposals for change. These deal with both mechanisms to transform how Canada ratifies and incorporates its international human rights obligations, and specific mechanisms to ensure enhanced implementation of the Convention on the Rights of the Child. Through these recommendations, we seek to ensure an enhanced level of accountability to children and all citizens, and to work to transform Canada's international human rights obligations into meaningful law, policy and practice.

Our committee has come to the realization that there can be no full compliance, and consequently, no real and comprehensive protection of children's rights without effective implementation. Responding to concerns expressed throughout our hearings, through this interim report we have attempted to address the gulf between the rights rhetoric and the reality of children's lives. We cannot turn back time to suggest improved means of approaching the Convention on the Rights of the Child. However, we can suggest a process that we could put in place to transform the country's approach to international human rights treaties in the future.

In reviewing the Convention on the Rights of the Child, our committee analyzed the international human rights treaty process, and has reached the conclusion that Canada has fallen behind other countries in meeting today's democratic expectation, and that a new negotiating and implementing process is desirable. This interim report also recommends various means for making our goals with regard to full respect for children's rights an effective reality within the federal government through Parliament, and, on an independent level, identifying the need for consultation, education and child participation.

• (1510)

Our first broad recommendation is that the federal government develop a more effective means for incorporating and implementing its international human rights obligations both before and after ratification of an international instrument. As is the current practice in Australia, this process could involve the dissemination of an explanatory report setting out the goals and consequences of the treaty in question, and encourage an enhanced consultation process with all stakeholders. We emphasize that ratification of any international human rights instrument should be accompanied by enabling legislation in which the federal government considers itself legally bound by its

international human rights commitments. This could take the form of tabling the treaty in Parliament, accompanied by a declaration that the federal government has reviewed all relevant legislation, an assurance to Parliament that Canada's laws are in compliance with the treaty obligations, and a formal statement that the federal government agrees to comply with the treaty. Our committee suggests a speedier and more consultative reporting process to United Nations human rights committees —

The Hon. the Speaker pro tempore: I regret to inform the honourable senator that her time has expired.

Senator Andreychuk: Honourable senators, I would ask leave to continue.

The Hon. the Speaker pro tempore: Honourable senators, is permission granted?

Hon. Senators: Agreed.

Senator Andreychuk: Thank you, honourable senators. In that speedier and more consultative process, the committee recommends that Canada's reports, the UN committee's concluding observations and the government's follow-up report be tabled in Parliament and referred to Parliamentary committees for examination. Further recommendations specifically target children's rights and the creation a child's commissioner, as well as a process whereby federal departments would implement the rights of the child more effectively. I leave this part of the report for Senator Pearson's comments.

Through these recommendations, it is the intention of the committee to elicit a response from the community and from the federal and provincial governments before a final stance is taken by the committee. It is the committee's hope that its conclusions supporting real compliance with the Convention on the Rights of the Child can be expressed, understood and replicated across Canada.

The results of this preliminary interim report will be enhanced by our continuing study of specific issues of children's rights and Canada's obligations, focusing on such issues as medically fragile children, disabled children, Aboriginal children, migrant children, minority children, sexually exploited children, children in conflict and those caught in the child welfare and youth criminal justice systems. In continuing our in-depth examination of these issues, we will attempt to respond to concerns that we have heard expressed across Canada and elsewhere so as to ensure respect for and effective implementation of specific articles of the convention to benefit all children.

Only when Canada truly lives up to its promises of compliance can this country be assured of living up to its international human rights obligations. I believe that only by bolstering the effectiveness and accountability of its ratification process can Canada truly claim to be a leader in the human rights field. A reputation that extends beyond our own borders but does not apply at home is not one worth having. Honourable senators, we look forward to your responses.

Hon. Landon Pearson: Honourable senators, thank you for the opportunity to speak on this my last sitting day in the Senate, and to speak on a subject that all of you know means so much to me.

When I took my oath of office 11 years ago, on October 25, 1994, I made a personal commitment to continue speaking out on behalf of children, as I had been doing for so many years. I then set myself two goals: the first was to become known as the senator for children, advancing children's interests in legislation and policy wherever possible; and the second was to become known as the children's senator, opening up the political and legislative process so that children, as defined by the United Nations Convention on the Rights of the Child as every human being under the age of 18, could participate in decisions that affect them. How successful I have been on both counts is for others to say.

Hon. Senators: Hear, hear!

Senator Pearson: However, I do know that these goals happily coalesce for me in the terms of reference of the Standing Senate Committee on Human Rights when the committee undertook to study the rights and freedoms of children. It is with great pleasure that I rise today to speak to our interim report, Who's in Charge Here? Effective implementation of Canada's international obligations with respect to the rights of children.

Before I begin, I should like to express my appreciation for the chairmanship of Senator Raynell Andreychuk. Her experience as a family court judge, diplomat and senator, combined with her deep commitment to human rights and remarkable energy, made her unusually well qualified to guide our deliberations. Our work has been greatly enriched by the knowledge and wisdom of Senator Sharon Carstairs, another steering committee member, and by that of all other senators on the committee, each one of whom demonstrated a special understanding of children and their issues, as Senator Andreychuk said. We were admirably served by the Clerk of the Committee, Line Gravel; and our researcher from the Library of Parliament, Laura Barnett, who was ably assisted by Kim Chao.

Senator Andreychuk described how we went about this study, but allow me to reinforce her comments about the unusually high quality of our witnesses and the clarity and constructive force that they brought to their presentations, which they had prepared with such care. Collectively, they laid bare the weaknesses of our state system to address the issues affecting the rights and freedoms of children that they were bringing to our attention. As we listened to them, it became increasingly clear that our government, however well-intentioned the individuals within, lacks the necessary mechanisms to implement the commitments Canada made when it ratified the Convention on the Rights of the Child in 1991. As a committee, we thought long and hard about how to improve the system so that it might become more effective as well as more efficient. This is what our interim report is all about: Who's in charge here? Well, who, indeed?

Senator Andreychuk has spoken to our general recommendations. I will speak to another two. Recommendation 4 reads:

An interdepartmental implementation working group for children's rights shall be established in order to coordinate activities, policies, and laws for children's rights issues. The creation of an interdepartmental working group to be placed within the Department of Justice emerges from the testimony of several witnesses which was based on the successful experience of other like-minded countries and, let me be honest, based on my own frustrations as I struggled to move children's issues through ministerial silos. Professor Joanna Harrington, Faculty of Law at the University of Alberta, who summed up both the problem and its possible solution quite well when she said:

Canada's treaty obligations in the field of human rights need to be mainstream so as to generate a greater understanding and acceptance of the legal character of these obligations. To assist with this mainstreaming, the responsibility for reporting on the implementation of Canada's human rights obligations should fall on the Department of Justice and not the Department of Canadian Heritage. The Department of Justice could also be made responsible for ensuring that all proposed legislation complies with Canada's obligations with respect to the rights and freedoms of children. A children's assessment should be required for all government bills, the result of which should be made publicly available after a bill's first reading giving notice of any area of concern and an opportunity for further scrutiny within a democratic process. ...and we agree about a greater role for Parliament.

Parliamentary committees could also serve a greater monitoring role, particularly if the scrutiny of the concluding observations made by the committee on the rights of the child were placed on the parliamentary calendar on a regular bases, thus drawing public attention to both the content of the report and, more importantly, Canada's response and intended actions.

Of course all honourable senators understand that policies related to children cross many federal departments, so this working group based at the Department of Justice would include representatives from across government. They would also have to meet regularly. Of course, we understand that most programs related to children fall under provincial jurisdiction. However, we have a national children's agenda that was signed onto by all jurisdictions. As I have happily learned, when it comes to children, there is a real will to work together.

Recommendation 3 states:

Parliament shall enact legislation to establish an independent Children's Commissioner to monitor the implementation of the *Convention on the Rights of the Child*, and protection of children's rights in Canada. The Children's Commissioner shall report annually to Parliament.

• (1520)

It is important to remember that the rights of the child addressed in the convention fall into three categories—namely; protection, provision and participation. While the interdepartmental mechanism I have just spoken about is a necessary condition for compliance with the convention, it is not sufficient. It would not have, nor could it have, a statutory obligation to listen to children. Once again, the voices of children would be left to the choice of adults. This is one of the main reasons the committee has recommended the need for a children's commissioner.

Now let me make the case. I have argued for a children's commissioner for a very long time, since the International Year of the Child, in fact, when, as vice-chair of the Canadian Commission for the International Year of the Child, I travelled across the country with colleagues to hear from children themselves. We discovered then how few opportunities children felt they had to make their voices heard. That was in 1979. In 2005, we still have no institutionalized capacity to listen to what they have to say.

In 1982, Norway was the first country to establish an ombudsman for children, and since 1990, when the Convention on the Rights of the Child came into force, 65 other countries have done do. England is the latest, with a commissioner in place since last June.

The committee met with Dr. Al Aynsley-Green in London last October, and he told us with pride that he was only appointed after intense scrutiny by a panel of children. In fact, he said with a smile that he had to take an exam they prepared, which, as an experienced paediatrician, was one of the most difficult he had ever written.

Many other countries are currently preparing legislation for a similar office, including China, although whether their children's commissioner would be truly independent remains to be seen.

Furthermore, from the time it was established, the Committee on the Rights of the Child has recommended that all countries establish these independent mechanisms for monitoring children's rights and has twice asked Canada to do so in its concluding observations on our country reports.

The United Nations General Assembly Special Session on Children, in a document entitled "A World Fit for Children," which Canada, along with all the other countries present, adopted, called on every nation to establish an independent mechanism, an "independent ombudsman for children... or other institutions for the promotion and protection of the rights of the child."

Since I have been in the Senate, I have developed three successive proposals with respect to a children's commissioner which have garnered a great deal of support among people and organizations that work directly with children, including the child advocates from various provinces in which they now exist. The advocates see a great need for a commissioner at the national level with whom they could work, and so did virtually every other witness who appeared before our committee who was not a government official.

Now it is time for both Parliament and government to get on board. Children are citizens, but they have no official voice. They are the only segment of Canadian society that has no vote, which means someone else has to speak for them in the corridors of power, and that should be someone whose primary focus is children and those associated with children and their families and their communities. A children's commissioner would be directed to report every year to Parliament and to raise the consciousness throughout Canada with respect to the rights of children and to allow children themselves to tell their true stories to the nation.

Almost exactly 11 years ago, on November 17, 1994, I made my first statement in this chamber to draw the attention of senators to National Child Day in the Year of the Family. National Child Day was established by an act of Parliament in 1993 to celebrate children in Canada and to commemorate the unanimous adoption of the Convention on the Rights of the Child by the General Assembly of the United Nations on November 20, 1989.

In my speech that day, I said, "The child is a person; a small one, perhaps, and vulnerable, lacking knowledge and experience, but a person nonetheless; a subject, not the object, of rights."

I believe that statement even more strongly today. I recognize that government has made real progress with respect to children since 1994 in Canada and abroad with the child tax benefit, extended parental leave, CIDA's child protection policy and, most recently, the early childhood care and development agreements with the provinces and territories. Yet, so much remains to be done to achieve full realization of children's rights here in Canada, to say nothing of in the rest of the world, and children's voices remain muted.

If they could be heard, they would remind us, as the children did at the special session on children in 2002, that, "We, the children, are not the problem; we are the solution."

Let me urge you to adopt this report so that the government will, we hope, be impelled to begin to put into place what our committee, which is your committee, recommends. When it does, progress toward compliance with the Convention on the Rights of the Child will accelerate and we will move much closer, we hope, to a Canada, if not to a world, fit for children.

Hon. Senators: Hear, hear!

On motion of Senator Rompkey, debate adjourned.

EXCISE TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Keon, for the second reading of Bill C-259, to amend the Excise Tax Act (elimination of excise tax on jewellery).

—(Honourable Senator Maheu)

Hon. Shirley Maheu: Honourable senators, I rise in support of the elimination of the excise tax on jewellery. It is my intention, therefore, to vote in favour of Bill C-259.

Honourable senators, I believe that we should be proactive in this chamber by way of finally killing the last vestige of the once broadly-based basket of excise taxes from the First World War, namely, the tax on jewellery. Canada should finally get out of the excise tax business forever. Probably every economist agrees that excise taxes kill jobs. This concept of tax collection has no place in the modern tax system. In fact, Canada is the only nation today in the industrial world that hangs on to this threat of tax planning, which is the ghost of tax policy implemented and imposed by governments in the environment of trying to pay for near ancient military conflict.

Unfortunately, this tax ghost from the First World War does much harm and absolutely no good. It is an archaic imposition that makes Canadian jewellery products more costly for Canadians. It serves to encourage international travellers to purchase jewellery when outside the country, without customs duties, and taking advantage of the \$750-exemption rule.

What can the tax bureaucrats be thinking about as they defend its longevity? It suggests ostrich-like policy making in the bureaucracy, particularly when the Auditor General reported nine years ago that, because of the difficulty in applying this tax in a modern framework of economic activity, the government was continuing to lose significant revenue by maintaining the excise tax. At the same time as the Auditor General's report, the House of Commons Finance Committee, under the chairmanship of the current Minister of International Trade, recommended that this tax be abolished. I find it patently contemptuous that the senior mandarins in the Department of Finance continue to shilly-shally on this issue by teasing and abusing everyone involved in the jewellery industry and Canadians in general by the nonsense of incremental reduction of this tax.

• (1530)

I believe this bill should go to committee as soon as possible, and, when it goes to committee, I would like to see someone ask the finance mandarins by what labyrinth or Neanderthal process they have come to the conclusion that a \$3 piece of jewellery is an object of luxury. Our kids use them on Halloween and, therefore, any Canadian purchasing such an object must be visited by the excise tax ghost. The mandarins at the Department of Finance should put Halloween aside and serve the interests of Canadians. Honourable senators must exorcise this last ghost of excise tax in Canada. Whatever we can conclude, we know that this jewellery tax serves no social policy objectives and it is inappropriate, regressive, arbitrary and just plain dumb.

Setting aside whether you believe in ghosts or not, when this legislation passed in the House of Commons on June 15 of this year, the vote count was overwhelmingly in favour, with two thirds of the members present. A total of 185 voted for the final elimination of the regressive excise tax laws of almost a century ago.

The arguments against maintaining the tax on jewellery are well known. I believe they are excellent arguments. In spite of this, there continues to be resistance in the bureaucracy to accelerate tax relief that will have a dramatic impact among the broadly-based facets of the jewellery section of our economy.

Is it not incredible, honourable senators, that excise taxes introduced to help pay for Canada's war effort 90 years ago have been removed, all of them over the years, except for the tax on

jewellery? This is clearly discriminatory. The concept of the excise tax has been to make consumers pay something to the government on the purchase of a so-called luxury item.

Today, the misguided senior officials at the Department of Finance seem to think that a \$3 piece of jewellery is a luxury item, while an \$800 to \$1,000 Louis Vuitton bag is not. The Louis Vuitton bag is not subject to an excise tax, and I do not believe that anyone is suggesting that it should be. That would certainly be turning the clock all the way back, in excise tax terms, to the First World War. How untenable the Department of Finance is, how very much out of touch it is.

We buy a wedding ring, we buy a \$15 pair of earrings, and we pay tax. We can go to the United States and buy diamonds for cheaper than we can buy them in Canada, even with the surcharge on the dollar.

Tax relief for the jewellery sector of our economy would positively enhance our Canadian domestic mining industry. It is not a stretch of anyone's imagination to determine that this would also have a positive impact on regional development. The manufacturing and trade GDP for 2005 in this industry is approaching \$100 million. It is reasonable to anticipate that this sector will continue to grow in significance. The jewellery industry has job creation prospects that are enormous. Currently, in the retail sector, spread from coast to coast, 65 per cent of jewellery firms have fewer than five employees; so much for small business. Why does the bureaucracy therefore champion such an outdated policy in a sector of the economy that has an impact throughout this nation?

Wholesale businesses would also be positively affected by the elimination of the tax. Currently, 50,000 Canadian people work in the jewellery industry. In addition to wholesaling and retailing, they are involved in diamond cutting, polishing and diamond exploration. Why should the results of their contribution to the economy not be on the same footing as those who make handbags, for example? The continuation of the jewellery tax is plainly and simply discriminatory, no matter how the bureaucrats want to slice it.

I urge my colleagues to finally discard early 20th century tax policy by quickly moving to support Bill C-259.

Hon. Lowell Murray: Honourable senators, I have been listening to this debate with great interest, including the speech we have just heard from our honourable friend, Senator Maheu. I was particularly struck by her reference to the economic impact of the diamond mining, exploration and manufacturing industry in this country. I am reminded of the fact that it has become an extremely important industry in the northern territories.

I want simply to place on the record for future consideration and reference the fact that not a nickel of the immense wealth that pours out of the industry in the North finds its way back directly to the territorial or Aboriginal governments in that part of our country. This is something that ought to be rectified.

I am taking advantage of the occasion of this debate to say that the territory, particularly the Government of the Northwest Territories, has been trying for 20 years or more to get a decent and equitable resource revenue-sharing agreement with Ottawa. It is long past time for this to be done. With every day that goes by without such an agreement, the territories are losing an important potential source of revenue that would contribute immensely to self-government and the devolution of governmental responsibilities both to the territories and to Aboriginal governments in that part of our country.

On motion of Senator LeBreton, for Senator Angus, debate adjourned.

EFFICACY OF GOVERNMENT IN IMPLEMENTING KYOTO PROTOCOL

INQUIRY—DEBATE SUSPENDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Andreychuk calling the attention of the Senate to the failure of the government to address the issue of climate change in a meaningful, effective and timely way and, in particular, to the lack of early government action to attempt to reach the targets set in the Kyoto Protocol.—(Honourable Senator McCoy)

Hon. Elaine McCoy: Honourable senators, it gives me great pleasure to rise today in this debate, the first in which I have participated in this chamber.

Hon. Senators: Hear, hear!

Senator McCoy: Thank you, honourable senators.

There is so much to say about climate change. Fifteen minutes certainly is not sufficient; as such, I look forward to many other opportunities, as well. I am mindful, it being my first time to speak, that it is also traditional to speak in a little larger context. Hence, what I shall do is touch quickly, first, on the mandate of the Senate and, second, turn to the subject of climate change and most particularly in the context of the inquiry that is before us today.

Our constitution sets out clearly that the Senate's role is to represent regions and minorities. To that end, I am pleased to have been appointed to the upper chamber of the Parliament of Canada in 2005, the year of Alberta's one hundredth anniversary. In so doing, I hope to follow in the strong tradition of senators from that province.

I have known Senator Fairbairn and Senator Hays for many years and have come to respect them even more since I have been in this chamber. Although I did not know Senator Banks before I got here, I certainly knew his reputation, which is very high. Having observed his participation in this chamber in its business, I can attest to that reputation being well deserved.

(1540)

Before I leave everyone with the impression that there are only Liberal senators from Alberta, let me hasten to also acknowledge other wonderful forebears that I have the pleasure to follow. One, of course, was Ernest Manning, who was such a great statesman

and a Social Credit senator from Alberta, and also Doug Roche, Ron Ghitter and Walter Twinn; all of whom were Progressive Conservatives, although Doug Roche sat as an independent. Therefore, I am proud to take my place among these eminent Albertans and I am proud to sit as a Progressive Conservative senator for Alberta.

Looking forward to our province's second century causes me to reflect upon the future. In Alberta many of us are asking rather deep questions as we take our place in this nation. One of those, and I believe a really significant question, is how should Alberta be contributing to our nation's future? How can we shape that future so that it benefits not only Albertans but also Canadians? How can we help Canada be at the leading edge of the 21st century so that it secures not only Albertans but all Canadians a prosperous 21st century?

In my opinion there is a simple, straightforward answer, and it is quite simply this: In Alberta we are now big enough, rich enough and mature enough to be nation builders. In speaking of being a nation builder, it may come as a surprise to some senators, but I wish to illustrate how we have done so in the last few years within the context of the climate change envelope.

Climate change is an example of how Alberta has been acting as a nation builder to secure a 21st century that is prosperous for all people across this great nation. I will tell my honourable friends about some of the things we did. I have personal experience of this because I was the catalyst in 1998 behind the first efforts that Alberta put forward.

Following the 1997 signing of the Kyoto Protocol, I was a member of the Alberta Economic Development Authority. We very clearly saw this as an issue of sustainability — not only an environmental issue, not only a social issue, but very clearly as an economic issue. Through the Economic Development Authority, we put a brief forward to the Government of Alberta, which immediately adopted it as their climate change strategy and action plan. That was in 1998, seven years ago.

In April, I co-chaired, along with the current Minister of Environment, the Honourable Guy Boutilier, Alberta's Climate Change Round Table. We pulled together 100 Albertans from all walks of life: Aboriginals, academics, municipal official, representatives of the agriculture and oil and gas sectors; we had people from every conceivable industry. We had 100 opinion leaders. We had youth members. We had everyone sit down for two days and come to a conclusion as to what we should do in terms of climate change.

We put together an action plan that had buy-in from all across the province. It was one that we had developed consensually, which is what we like to do in Alberta, and it was one that adopted the fundamental principle we are pro-climate change that we must do something as an energy leader and an environmental leader not only for Canada but also for the world.

Part of that was to create Climate Change Central, of which I am now vice-chair. That is a public-private partnership. We invited the federal government to join us, and the Honourable Anne McLellan has been sitting with us on the board of Climate Change Central. We have managed to keep close ties as we have moved forward.

We did not stop there, however. In October of 2002, the Government of Alberta put together an action plan with more specifics on what we would do to respond to climate change. In 2003, it passed the Climate Change and Emissions Management Act, which is the first climate change regulatory act in this country. The Alberta government also initiated specific climate change legislation, some of which was brought into force the following year.

In 2003, the Government of Alberta signed a \$200-million agreement for green power that will supply 90 per cent of the province's needs, most of it from wind energy and some of it from biomass. The Municipal Energy First Program was launched in that year, which gives interest-free loans to municipalities so that they can retrofit and have energy efficient buildings and fleets. In addition, Energy Solutions Alberta was established by Climate Change Alberta. A rebate program was put in place that would encourage the oil and gas industry to capture and inject carbon dioxide and therefore contribute to the overall effort.

In 2004, we became the first jurisdiction to require the registration of greenhouse gas emissions. That program has been in effect for over a year. There are mandatory measuring and reporting requirements for any facility emitting over 100,000 tonnes of greenhouse gases.

Also, we have had more influence than just in our own jurisdiction. Climate Change Central has been very active with the Government of Canada, and some of the ideas that we incorporated in our climate change plan have gone forward into Project Green; the provincial participation, for example, with an emphasis on intensity factors. Climate Change Central hosted two emissions trading simulations, which gave industry as well as NGOs and the governments of Alberta and Canada an opportunity to learn about that first-hand. Also, Climate Change Central was the first to suggest a technology innovation fund that would help contribute to the response to climate change over time.

Our influence continues, but other actors in Alberta are also doing wonderful things. The Metis Settlements General Council has passed a carbon storage policy. The City of Calgary is another example of a municipality adopting a climate change action plan. Calgary has already reduced its emissions factors below the level of 1990 emissions.

Honourable senators, as you can see, the Government of Alberta is very active. We are pro-climate change. We have been engaged and continue to be engaged. Notwithstanding a rather unfortunate headline in *The Globe and Mail* yesterday as to Albertans being anti-Kyoto, what we are doing, in a very responsible manner, is helping to build, in collaboration with the Government of Canada, a prosperous nation with a future.

To turn to the inquiry at hand, I was pleased to see and to hear Senator Andreychuk hearken back to Rio and the principles of sustainable development, because that is climate change. It is, quite likely, the most important issue we have on the sustainability front today because we are so fundamentally a carbon-based society.

I want honourable senators to think for a minute about what they did when getting up this morning and how many things they touched that are made from petroleum products. The first thing senators might have done was brush their teeth. Toothpaste contains petroleum-based products. A toothbrush is plastic. That is a petroleum-based product. Pyjamas are probably shipped here from Eastern Asia. Petroleum-based products get those delivered to the store where they were bought.

The wheat in a slice of toast is grown with fertilizer, and fertilizer is based on petroleum products.

The Hon. the Speaker: I am sorry to interrupt the Honourable Senator McCoy, but Her Excellency the Governor General has arrived. Our custom is to now adjourn to await her arrival. With the agreement of honourable senators, I will leave the chair. We will continue the session following Royal Assent.

Hon. Senators: Agreed.

Debate suspended.

The Senate adjourned during pleasure.

• (1600)

[Translation]

ROYAL ASSENT

Her Excellency the Governor General of Canada having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, Her Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act to authorize the construction and maintenance of a bridge over the St. Lawrence River and a bridge over the Beauharnois Canal for the purpose of completing Highway 30 (*Bill S-31*, *Chapter 37*, 2005)

An Act to establish the Canada Border Services Agency (Bill C-26, Chapter 38, 2005)

An Act respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign countries (Bill S-38, Chapter 39, 2005)

The House of Commons withdrew.

Her Excellency the Governor General was pleased to retire.

The sitting of the Senate was resumed.

[English]

EFFICACY OF GOVERNMENT IN IMPLEMENTING KYOTO PROTOCOL

INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Andreychuk calling the attention of the Senate to the failure of the government to address the issue of climate change in a meaningful, effective and timely way and, in particular, to the lack of early government action to attempt to reach the targets set in the Kyoto Protocol.—(Honourable Senator McCoy)

Hon. Elaine McCoy: I was saying a few moments ago, honourable senators, that carbon is very much woven into the fabric of our society. Therefore, anything that we do in order to address the climate change issue must be done with care and caution.

This brings me to my final point. When I was first here in this august chamber, I was graciously hosted by the Speaker of the Senate, as were all of you. Carved into the lintel above the door to his chamber is a Latin phrase. I apologize to Latin scholars for my pronunciation. It said: Sapere aude. When I asked what it meant, I was told: "Dare to be prudent." If there is any one issue on which I believe we should dare to be prudent, it is our response to climate change.

Unfortunately, from the very beginning, Kyoto was not a prudent response. The targets that were set were arbitrary. They bore absolutely no relationship to anything scientific or anything that dealt with our industry mix or consumer demand. The impacts of that target were totally unknown. Another total unknown was the level of effort it would take to reach them.

Having said that, no one knew in 1997 what it would take to reach those targets. We can live with that. However, any attempt to rush in where fools would otherwise not is, in my view, a bad policy that has the disadvantage of disrupting the fabric of our society.

Unfortunately, for eight years, Kyoto has focussed our full attention on targets instead of on solutions. Alberta has been leading by talking to other provinces, industries, other municipalities, consumers and the Government of Canada in finding sustainable solutions. It is that to which we are committed, and that is how we are making our nation a better place.

In responding to this inquiry, I would say timing is the issue, not the targets or the implementation. We must be careful to get the timing right, get our responses right, and together ensure the prosperity of all Canadians.

• (1610)

If there is any way that we can continue our positive conversations on that line, and if there is any way that we can actually help that debate in this chamber as we become much more familiar with the issues of a very complex situation, then we

will have done our job as senators. I look forward to participating with you in that.

The Hon. the Speaker pro tempore: If no other senator wishes to speak, the inquiry is considered debated.

INEQUITIES OF VETERANS INDEPENDENCE PROGRAM

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Callbeck calling the attention of the Senate to the present inequities of the Veterans Independence Program.—(Honourable Senator Di Nino)

Hon. Consiglio Di Nino: Honourable senators, I should like to add a few words in support of this inquiry. I applaud Senator Callbeck for initiating the inquiry. Her contribution to this debate shed light on the inequities of the Veterans Independence Program and her efforts to convince the Minister of Veterans Affairs to correct these inequities. Senator Callbeck is obviously superb negotiator, for it seems the minister has corrected these deficiencies, at least in large part. To save time, I gladly refer you to Senator Callbeck's presentation in this chamber for all the details.

I also reviewed with interest the comments on this inquiry by Senators Meighen and Day. Both congratulate the ministry for listening and improving the program, but both are disappointed with the fact that the changes do not capture benefits for certain categories of spouses and caregivers. These are individuals who, for various reasons, did not take part in the original VIP program. This should be rectified. I know that Senator Callbeck also feels they should be allowed to participate. She will undoubtedly take their cause to the minister, and we wish her the same success as the original challenge. To her, I extend my support and cooperation on this issue.

The Hon. the Speaker pro tempore: I wish to advise the Chamber that if Senator Callbeck speaks now, it will have the effect of closing debate.

On motion of Senator Callbeck, debate adjourned.

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, may I suggest that we stand certain items on the Order Paper? However, certain items on the Order Paper are now at Day 15 and, as such, the clock will have to be rewound.

Hon, Noël A. Kinsella (Leader of the Opposition): All orders may be stood.

Senator Rompkey: Are you saying that it is in order to stand everything?

Senator Kinsella: Yes.

Senator Rompkey: I want to call Motion No. 138, and then I would propose to stand all the other items on the Order Paper.

The Hon. the Speaker pro tempore: Is it agreed, honourable senators, that after Motion No. 138, we stand all the items on the Order paper?

Hon. Senators: Agreed.

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO TABLE REPORTS DURING ADJOURNMENT OF THE SENATE

Hon. Colin Kenny, pursuant to notice of October 25, 2005, moved:

That the Standing Senate Committee on National Security and Defence be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the chamber.

Motion agreed to.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 58(1)(h) moved:

That when the Senate adjourns today, it do stand adjourned until Tuesday, November 22, 2005, at 2 p.m.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, November 22, 2005, at 2 p.m.

THE SENATE OF CANADA PROGRESS OF LEGISLATION

(indicates the status of a bill by showing the date on which each stage has been completed)

(1st Session, 38th Parliament)

Thursday, November 3, 2005

(*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.)

GOVERNMENT BILLS

	Chap.	25/04	8/05	31/05	37/05				39/05	
	R.A.	04/12/15	05/03/23*	05/06/29*	05/11/03				05/11/03	
	3rd	04/12/02	04/12/08	05/04/20	05/06/21		05/06/20	05/07/18	05/07/18	
	Amend	0 observations	0	0	0		0	0	m	
	Report	04/11/25	04/11/25	05/03/07	05/06/16		05/06/16	05/06/29	05/06/23	
(SENATE)	Committee	Legal and Constitutional Affairs	Banking, Trade and Commerce	Social Affairs, Science and Technology	Transport and Communications		Energy, the Environment and Natural Resources	Foreign Affairs	Agriculture and Forestry	Legal and Constitutional Affairs
	2 nd	04/10/26	04/11/17	05/02/02	05/06/07	Bill withdrawn pursuant to Speaker's Ruling 05/06/14	60/90/50	05/06/15	05/06/15	05/06/15
	1st	04/10/19	04/10/28	04/11/02	05/05/12	05/05/16	05/05/19	05/05/19	05/05/31	05/06/07
	Title	A second Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	An Act to implement an agreement, conventions and protocols concluded between Canada and Gabon, Ireland, Armenia, Oman and Azerbaijan for the avoidance of double taxation and the prevention of fiscal evasion	An Act to amend the Statistics Act	An Act to authorize the construction and maintenance of a bridge over the St. Lawrence River and a bridge over the Beauharnois Canal for the purpose of completing Highway 30	An Act to amend the Aeronautics Act and to make consequential amendments to other Acts	An Act to amend the Export and Import of Rough Diamonds Act	An Act to amend the Criminal Code and the Cultural Property Export and Import Act	An Act respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign countries	An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act
	N	S-10	8-17	S-18	S-31	S-33	S-36	S-37	S-38	8-39

Chap.

R.A.

Amend

05/10/20

Report 05/09/29

Committee
Social Affairs, Science and
Technology

05/06/30

1 st

Title

An Act to amend the Hazardous Materials 05/06/09 Information Review Act

No. S-40

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	Title	An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act	An Act to amend the Canada Shipping Act, the Canada Shipping Act, 2001, the Canada National Marine Conservation Areas Act and the Oceans Act	An Act to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment	An Act to provide financial assistance for post-secondary education savings	An Act to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts	An Act to amend the Department of Canadian Heritage Act and the Parks Canada Agency Act and to make related amendments to other Acts	An Act to amend the Financial Administration Act, the Canada School of Public Service Act and the Official Languages Act	An Act to establish the Economic Development Agency of Canada for the Regions of Quebec	An Act to amend the Criminal Code (mental disorder) and to make consequential amendments to other Acts	An Act to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings	An Act to prevent the introduction and spread of communicable diseases	An Act to amend the Criminal Code, the DNA Identification Act and the National Defence Act
	No.	C-2	C-3	0	C-5	9-0	C-7	8-0	6-0	C-10	0-11	C-12	C-13

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0-14	An Act to give effect to a land claims and self-government agreement among the Tlicho, the Government of the Northwest Territories and the Government of Canada, to make related amendments to the Mackenzie Valley Resource Management Act and to make consequential amendments to other Acts	04/12/07	04/12/13	Aboriginal Peoples	05/02/10	Þ	05/02/10	03/02/13	
C-15	An Act to amend the Migratory Birds Convention Act, 1994 and the Canadian Environmental Protection Act, 1999	04/12/14	05/02/02	Energy, the Environment and Natural Resources	05/05/17	0 observations	05/05/18	05/05/19*	23/05
C-18	An Act to amend the Telefilm Canada Act and another Act	04/12/13	05/02/23	Transport and Communications	05/03/22	0 observations	05/03/23	05/03/23*	14/05
C-20	An Act to provide for real property taxation powers of first nations, to create a First Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority and First Nations Statistical Institute and to make consequential amendments to other Acts	04/12/13	05/02/16	Aboriginal Peoples	05/03/10	0	05/03/21	05/03/23*	90/6
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C-25	An Act governing the operation of remote sensing space systems	05/10/18	05/11/01	Foreign Affairs					
C-26	An Act to establish the Canada Border Services Agency	05/06/14	05/06/29	National Security and Defence	05/11/01	0 observations	05/11/02	05/11/03	38/05
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C-29	An Act to amend the Patent Act	05/02/15	05/03/07	Banking, Trade and Commerce	05/04/12	5	05/04/14	05/05/05*	18/05
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C-33	A second Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004	05/03/07	05/04/20	National Finance	05/05/03	0	05/05/10	05/05/13*	19/05

No.	Title	300	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-34	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 2, 2004-2005)	04/12/13	04/12/14				04/12/15	04/12/15	27/04
C-35	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 3, 2004-2005)	04/12/13	04/12/14	1	1		04/12/15	04/12/15	28/04
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C-37	An Act to amend the Telecommunications Act	05/10/25	05/11/02	Transport and Communications					
C-38	An Act respecting certain aspects of legal capacity for marriage for civil purposes	05/06/29	90/20/90	Legal and Constitutional Affairs	05/07/18	0	05/07/19	05/07/20*	33/05
C-39	An Act to amend the Federal-Provincial Fiscal Arrangements Act and to enact An Act respecting the provision of funding for diagnostic and medical equipment	05/02/22	05/03/08	Social Affairs, Science and Technology	05/03/10	0	05/03/22	05/03/23*	11/05
C-40	An Act to amend the Canada Grain Act and the Canada Transportation Act	05/05/12	05/05/16	Agriculture and Forestry	05/05/18	0	05/05/19	05/05/19*	24/05
C-41	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 4, 2004-2005)	05/03/22	05/03/23			1	05/03/23	05/03/23*	12/05
C-42	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2006 (Appropriation Act No. I, 2005-2006)	05/03/22	05/03/23	1	I	I	05/03/23	05/03/23*	13/05
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C-48	An Act to authorize the Minister of Finance to make certain payments	05/06/28	90/20/50	National Finance	05/07/18	0 observations	05/07/20	05/07/20*	36/05
C-49	An Act to amend the Criminal Code (trafficking in persons)	05/10/18	05/11/01	Legal and Constitutional Affairs					
C-56	An Act to give effect to the Labrador Inuit Land Claims Agreement and the Labrador Inuit Tax Treatment Agreement	05/06/16	05/06/20	Aboriginal Peoples	05/06/21	0	05/06/22	05/06/23*	27/05

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Title	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006)		Title	An Act to amend the Excise Tax Act (elimination of excise tax on jewellery)	An Act to change the name of the electoral district of Kitchener—Wilmot—Wellesley—Woolwich	An Act to change the name of the electoral district of Battle River		Title	An Act to amend the Citizenship Act (Sen. Kinsella)	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	An Act to amend the Canada Transportation Act (running rights for carriage of grain) (Sen. Banks)	An Act to amend the Supreme Court Act (references by Governor in Council) (Sen. Cools)	An Act to amend the Judges Act (Sen. Cools)
No.	,		No.	C-259	C-305	C-304	İ	No	S-2	S-3	4-0	ů,	9-8	<u>r-</u> 0	8

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8-9	An Act to amend the Copyright Act (Sen. Day)	04/10/07	04/10/20	Social Affairs, Science and Technology					
S-11	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/10/19	04/10/26	Legal and Constitutional Affairs	05/04/12	2 observations	05/05/17		
S-12	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/10/19	05/06/01	Energy, the Environment and Natural Resources	05/06/29	0			
S-13	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/10/19	04/11/17	Legal and Constitutional Affairs					
S-14	An Act to protect heritage lighthouses (Sen. Forrestall)	04/10/20	04/11/02	Social Affairs, Science and Technology	05/03/21	0	05/03/23		
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S-23	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	05/02/01		Subject matter 05/07/18 Legal and Constitutional Affairs					
S-24	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	05/02/03	05/03/10	Legal and Constitutional Affairs					
S-26	An Act to provide for a national cancer strategy (Sen. Forrestall)	05/02/16	05/06/01	Social Affairs, Science and Technology					1
S-28	An Act to amend the Bankruptcy and Insolvency Act (student loan) (Sen. Moore)	05/03/23	05/06/01	Banking, Trade and Commerce				1	,
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Z	Title	1 st	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-32	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	05/05/12	Dropped from Order Paper pursuant to Rule 27(3) 05/11/03						
S-34	An Act to amend the Department of Justice Act and the Supreme Court Act to remove certain doubts with respect to the constitutional role of the Attorney General of Canada and to clarify the constitutional relationship between the Attorney General of Canada and Parliament (Sen. Cools)	05/05/16							
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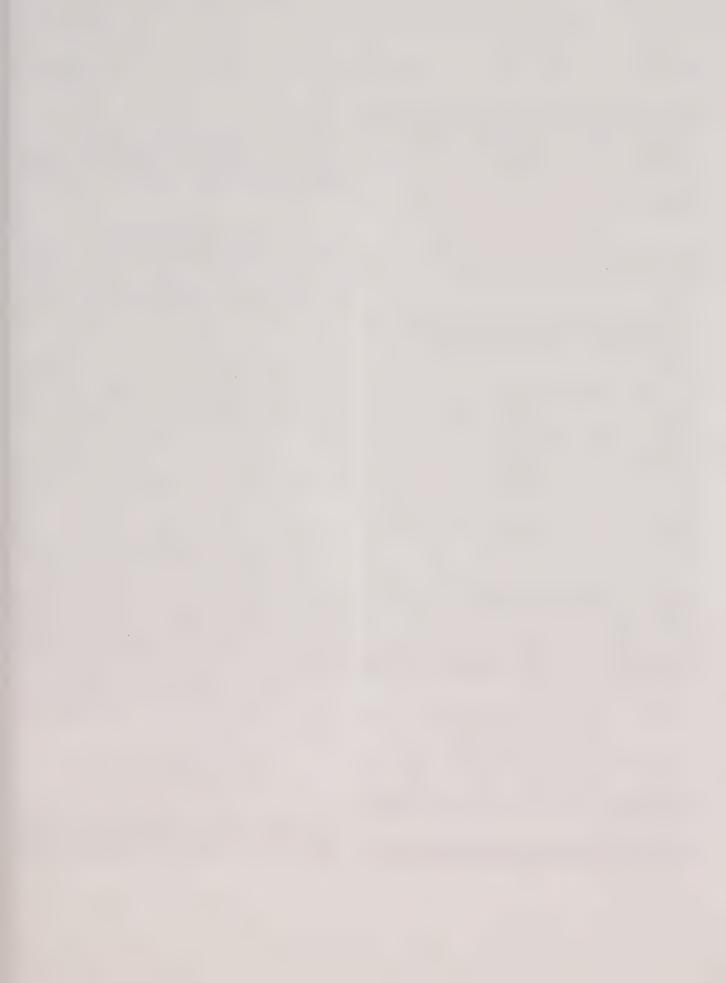
Tuesday, November 22, 2005

THE HONOURABLE DANIEL HAYS SPEAKER

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Debates and Publications: Chambers Building, Room 943, Tel. 996-0193



THE SENATE

Tuesday, November 22, 2005

The Senate met at 2 p.m., the Speaker pro tempore in the Chair.

Prayers.

[Translation]

SENATORS' STATEMENTS

THE LATE ROBERT FORTIER, Q.C.

Hon. Dan Hays: Honourable senators, Mr. Robert Fortier, former Clerk of the Senate, died on Saturday, November 5, at the age of 91. Mr. Fortier, Queen's Counsel, was named Clerk of the Senate and Clerk of the Parliaments on February 1, 1968.

[English]

In February 1982, shortly after his retirement the previous year, Robert Fortier was made an honorary officer of this house. During his years as clerk, he served many Speakers, leaders and senators from whom he earned high regard for his integrity, judgement, impartial professionalism and cordiality.

A lawyer, Robert Fortier was called to the Quebec bar in 1937 before embarking on a distinguished career in the public service. From 1942 to 1953, he served as private secretary to the Minister of Public Works, and went on to serve the department as secretary and director of administrative services. In 1950, he took a leave of absence from the department to serve as private secretary to the chairman of the Canadian delegation to the United Nations Economic and Social Council.

[Translation]

Right up until his retirement in 1981, Robert Fortier played an active role in advancing his profession, particularly as vice-president, from 1968 to 1969, of the Association of Clerks-at-the-Table in Canada.

On behalf of all the senators, the Clerk of the Senate, the Clerks at the Table and all the employees of the Senate, I extend our sincere condolences to his wife Monique, his children, Claude and Anne-Marie, and their families.

[English]

QUESTION OF PRIVILEGE

NOTICE

The Hon. the Speaker pro tempore: Honourable senators, this morning we received notice of a question of privilege from Senator Spivak.

Hon. Mira Spivak: Honourable senators, pursuant to rule 43, I give notice that I intend to raise a question of privilege today with respect to the clear contradictions in the response to questions

I placed on the Order Paper regarding the boundaries of Gatineau Park, and the response to similar questions placed on the Order Paper in the House of Commons by the member of Parliament for Ottawa Centre.

NATIONAL CHILD DAY

Hon. A. Raynell Andreychuk: Honourable senators, November 20 is National Child Day in Canada, marking the adoption by the United Nations of the Convention on the Rights of the Child. The convention recognizes, on virtually a worldwide basis, that children have basic human rights. The convention talks to the needs of children, including the need for a family. If we are truly committed to the convention, then the convention could play a useful role in identifying rights and responsibilities for children and recognizing them as true citizens of Canada.

Honourable senators will remember that the Standing Senate Committee on Human Rights, chaired by myself and Senator Pearson, as deputy chair, filed a report entitled, Who's in Charge Here? It points out that Canada has signed and ratified the Convention on the Rights of the Child but simply uses it as a guiding principle. In the Senate's report, it was stated:

All levels of government across Canada have a responsibility and the capacity to protect children's rights; the question is simply of how effectively they are accomplishing this task. Canada's courts have begun to move toward referring to the Convention on the Rights of the Child in a variety of areas of the law — from immigration to child protection issues. But what is needed to push both the issue and respect for the democratic process further is enhanced accountability, increased parliamentary and public input, and a more open approach to compliance that promotes transparency and enhanced political will.

Therefore, honourable senators, it is our responsibility to ensure on this National Child Day that if we have, as a country, embraced the convention and children's rights, we cannot use the convention as simply a guiding principle; but we must afford children the same opportunity to exercise those rights and responsibilities as adults have done for themselves in other pieces of legislation.

Honourable senators, we have the opportunity, as the committee continues its work, to make every day child's day.

Hon. Senators: Hear, hear!

THE HONOURABLE LANDON PEARSON

TRIBUTE ON RETIREMENT

Hon. Marilyn Trenholme Counsell: Honourable senators, I was in Moncton for a literacy event when many of you paid tribute to Senator Landon Pearson, but today is an equally wonderful occasion — the day we are celebrating National Child Day on Parliament Hill.

[Translation]

Since September 15, 1994, the children and young people of Canada have had a strong voice in Ottawa and throughout Canada. The Honourable Senator Landon Pearson has been that voice.

(1410)

There are not enough words to express the gratitude we owe Senator Pearson for championing Canada's children and young people in the areas of human rights, youth criminal justice and, more recently, early childhood development.

Senator Pearson has worked relentlessly throughout Canada and around the world, and is still their voice.

[English]

Long before I came to the Senate of Canada, the publication Children and the Hill came to me regularly. Senator Pearson connected Canadians with the Senate and with the Parliament of Canada in a way that is a model for us all to emulate. During my first week in the Senate I was invited to the children's caucus. Senator Pearson was there, and I felt instantly at home. Sadly, the parliamentarian who chaired this caucus moved on to another area of responsibility and the children's caucus ceased to exist. I hope we can have a new beginning with colleagues who share my passion for children. Senator Pearson leaves us with an enormous legacy of work on behalf of Canada's children and youth. Her work will continue at Carleton University. It falls to us to keep children's issues alive here.

National Child Day causes us to rejoice in the fact that the majority of Canada's youngest citizens are excelling, giving us confidence and hope for the future of this great country. Yet sadly, this day is a reminder of the little ones amongst us from sea to sea to sea for whom all is not well. Poverty, disorders such as learning disabilities — fetal alcohol syndrome, fetal alcohol effects, autism and attention deficit hyperactivity disorder — family violence, addiction, mental illness and suicide are no longer hidden behind walls of silence. They confront us with the absolute necessity of doing more now to give each child in Canada the chance to reach his or her full potential. The Government of Canada has made its greatest commitment ever to children. Senator Landon Pearson made the greatest commitment humanly possible to children and youth. We must take up the torch.

[Translation]

INTER-PARLIAMENTARY UNION

MEETING AT UNITED NATIONS HEADQUARTERS

Hon. Andrée Champagne: Honourable senators, two weeks ago I had my first opportunity as a senator to take part in a delegation. Senators Smith, Dallaire and I attended a meeting of the Inter-Parliamentary Union at the United Nations in New York City.

I did not, of course, share their familiarity with the UN Security Council resolutions and their contents. The resolution numbers by themselves meant nothing to me. So I was extremely humbled by their extremely well prepared presentations. Having always been a curious person, I came back with my knowledge enriched.

I will therefore give a brief overview of some of the subjects we discussed, subjects on which we were all in agreement, regardless of our continent of origin.

Terrorism has become a pandemic, but we are all prone to say, without any hesitation, that terrorism is other people. We all want to see the end of this scourge, but we have trouble accepting that there are no winners in this fight. Still, it is important to be proactive.

The democratic countries, diverse as they are, tend to readily forget that unity is needed to achieve their goals. As a result, the need to reach agreement on the wording of a definition of terrorism is keeping the UN member states from signing a convention that would cover everything that previous resolutions had left out. They continue to agree to disagree.

As we come back to our respective parliaments, we must continue to remind our colleagues of the importance of proper preparation in our efforts to eradicate terrorism, to protect our citizens, to help them in times of crisis, and also, and perhaps most important, to take steps together to avoid preventable disasters and to build and maintain peace.

Ultimately, we did not solve all the problems of the world during these two days, but we left knowing that, if everyone involved puts in the necessary effort, great strides can be made toward a better world. A world where the human race will endeavour to create bonds of friendship instead of tearing one another to pieces. A world where the most vulnerable and at risk will be protected, where ecology will be part of everyone's credo, and where, as openly wished for by Senator Dallaire, conflicts will be resolved at negotiating tables, and not on battlefields. A world where the courts will punish those who violate the most fundamental law: "thou shalt love thy neighbour". A world where anger, and even rage, would not necessarily translate into revenge. A world in which the media will be hard pressed to find earth-shattering headlines.

Honourable senators, it will probably come as no surprise to you if I say that we were there as the celebrations...

The Hon. the Speaker: Honourable senators, Senator Champagne's speaking time has now expired.

Senator Champagne: Honourable senators, could I be allowed to finish?

The Hon. the Speaker: Honourable senators, I am sorry, but that will not be possible at this stage of the proceedings.

[English]

THE HONOURABLE TOMMY BANKS

CONGRATULATIONS ON RECEIVING JAZZ WINNIPEG INC. COOL AWARD FOR OUTSTANDING CONTRIBUTION TO JAZZ

Hon. Maria Chaput: Honourable senators, on Saturday, November 12, 2005, I had the privilege and great pleasure to attend the gala fundraiser for Jazz Winnipeg Inc. in Winnipeg, Manitoba. I was accompanied not only by my husband, Louis Bernardin, but also by one of our former colleagues, the Honourable Viola Léger, a great artist in her own right and very dear to my heart.

There is a vibrant artistic community in Manitoba and jazz is part of its culture and community. The language of music is universal, and it does not matter which language you speak, English, French or Italian, we are all on the same wave length, smiling, nodding and swaying.

During the evening, the Cool Award for Outstanding Contribution to Jazz was presented to one of our distinguished senators, the Honourable Tommy Banks. The Cool Award honours one Canadian each year who has made an indelible mark on Canada's music scene through the art of jazz. It was presented to Senator Banks in recognition of his incomparable work as a jazz musician and advocate. He is an exceptional jazz musician and a great person. Congratulations and thank you for your performance.

CITIZENSHIP AND IMMIGRATION

CHINESE HEAD TAX AND EXCLUSION ACT

Hon. Lillian Eva Dyck: Honourable senators, 120 years ago on November 7, 1885, near Revelstoke, British Columbia, the last spike was driven to complete our nation's first transcontinental railway. Chinese workers in Canada played a major role in building this railway through the Canadian Rockies. Between 1881 and 1885 some 17,000 Chinese arrived in Canada. As many as 9,000 of them worked at building the railway for the federal government. The work was especially dangerous and, unfortunately, many Chinese workers perished in completing the railway. The Chinese workers were very much unwelcome. The B.C. government of the day pandered to racist elements in the population and tried to ban Chinese workers. Such actions proved untenable because no one else could be found to do the work. Even the first prime minister of Canada, Sir John A. Macdonald, recognized this fact when he stated that without this Chinese labour there will be no railway.

Upon completion of the railway, the Government of Canada thought it no longer needed the workers. Immediately after the last spike was driven, Canada passed a law requiring Chinese immigrants to pay a \$50 head tax. This tax was raised to \$100 in 1900 and to \$500 in 1903. At that time, \$500 was equivalent to two years' wages. More than 81,000 Chinese immigrants paid approximately \$23 million to the Canadian government. In 1923,

the head tax was repealed but the Chinese Exclusion Act was instituted. Wives and families could not join the men and immigration was stopped until 1947 when the Chinese Exclusion Act was repealed.

• (1420)

Honourable senators, for 62 years, from 1885 until 1947, the Chinese in Canada were victims of legislated racism in the form of the head tax and the Chinese Immigration Act and the Chinese Exclusion Act. As a consequence of these acts, Chinese families in Canada had to endure financial hardships, deprivation and disintegration of family units, with some families never reuniting, including my own family.

While the government has recognized the need to start the reconciliation process with Chinese Canadians by including \$25 million in the 2005 budget for commemorative and educational initiatives, this is not enough. It is time for the Government of Canada to acknowledge its actions and make reparations. Apology and reparations to the descendants of the Chinese who worked on the railway and the descendants of the Schinese who paid the head tax would give real meaning to the sacrifices that our ancestors made to the creation of the Dominion of Canada.

Finally, any group with which the Canadian government signs agreements should have had and continue to have substantial and meaningful input from the descendents of the Chinese railway workers or the head tax payers.

ROUTINE PROCEEDINGS

LIBRARY OF PARLIAMENT

APPOINTMENT OF LIBRARIAN—DOCUMENT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, a certificate of nomination for the Parliamentary Librarian.

AUDITOR GENERAL

NOVEMBER 2005 REPORT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the Auditor General's annual report to the House of Commons.

NUCLEAR WASTE MANAGEMENT ORGANIZATION

REPORT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the Nuclear Waste Management Organization's document entitled, Choosing a Way Forward: The Future Management of Canada's Used Nuclear Fuel.

STUDY ON ISSUES RELATED TO MANDATE

INTERIM REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE ON STUDY TABLED

Hon. Tommy Banks: Honourable senators, I have the honour to table, in both official languages, the eleventh report of the Standing Senate Committee on Energy, the Environment and Natural Resources.

TELECOMMUNICATIONS ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Joan Fraser, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Tuesday, November 22, 2005

The Standing Senate Committee on Transport and Communications has the honour to present its

NINTH REPORT

Your Committee, to which was referred Bill C-37, An Act to amend the Telecommunications Act, has, in obedience to the Order of Reference of Wednesday, November 2, 2005, examined the said Bill and now reports the same with the following amendments:

- 1. Page 2, clause 1: Replace line 28 with the following:
 - "before each House of Parliament on any of the".
- 2. Page 5, clause 2: Replace lines 12 to 16 with the following:

"commits the violation is liable

- (a) in the case of an individual, to an administrative monetary penalty of up to \$1,500; or
- (b) in the case of a corporation, to an administrative monetary penalty of up to \$15,000.".

Your Committee has also made certain observations, which are appended to this report.

Respectfully submitted,

JOAN FRASER

Observations to the Ninth Report of the Standing Senate Committee on Transport and Communications

Your Committee notes that a three-year review of this legislation will be conducted by Parliament and that the Canadian Radio-television and Telecommunications Commission (CRTC) will be engaging in wide-ranging consultations in preparation for the implementation of the

legislation. As part of this exercise, the CRTC should gather information and prepare recommendations for ways in which the legislation could accommodate calls based on personal relationships, business-to-business calls, and calls based on referrals.

Your Committee further notes that particular attention must be given, in the CRTC regulation-development process, to clarifying what constitutes a "pattern of abuse" which would be considered a violation of this legislation. This issue was raised by a witness from the CRTC during your Committee's hearings.

Finally, your Committee emphasizes the importance, in preparing for the three-year review, of the CRTC collecting statistics on complaints made under the legislation, including complaints about calls that are exempt.

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Fraser, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

FOOD AND DRUGS ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Lucie Pépin, for Senator Kirby, chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, November 22, 2005

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

FIFTEENTH REPORT

Your Committee, to which was referred Bill C-28, An Act to amend the Food and Drugs Act, has, in obedience to the Order of Reference of Tuesday, November 1, 2005, examined the said bill and now reports the same without amendment.

Respectfully submitted,

MICHAEL KIRBY Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Pépin, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[English]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SEVENTH REPORT OF COMMITTEE TABLED

Hon. David P. Smith: Honourable senators, I have the honour to table the seventh report of the Standing Senate Committee on Rules, Procedures and the Rights of Parliament, pertaining to the participation of honourable senators by video conference during committees.

THE ESTIMATES, 2005-06

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) PRESENTED

Hon. Donald H. Oliver, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Tuesday, November 22, 2005

The Standing Senate Committee on National Finance has the honour to present its

SEVENTEENTH REPORT

Your Committee, to which was referred the Supplementary Estimates (A) 2005-2006, has, in obedience to the Order of Reference of Tuesday, November 1, 2005, examined the said estimates and herewith presents its report.

Respectfully submitted,

DONALD H. OLIVER Chairman

(For text of report, see today's Journals of the Senate, Appendix, p. 1285)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Oliver, with leave of the Senate notwithstanding rule 58, report placed on the Orders of the Day for consideration later this day.

BUSINESS OF THE SENATE

NOTICE OF MOTION TO EXTEND WEDNESDAY SITTING AND AUTHORIZE COMMITTEES TO MEET DURING THE SITTING

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that at the next sitting of the Senate I will move:

That, notwithstanding the order of the Senate of November 2, 2004, when the Senate sits on Wednesday, November 23, it continue its proceedings beyond 4 p.m. and follow the normal adjournment procedure according to rule 6(1); and

That committees of the Senate scheduled to meet on Wednesday, November 23, be authorized to sit even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

NOTICE OF MOTION TO AUTHORIZE SATURDAY SITTING

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that at the next sitting I will move:

That when the Senate adjourns on Friday, November 25, it do stand adjourned until Saturday, November 26, at 9 a.m.

NOTICE OF MOTION TO AUTHORIZE MONDAY SITTING

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that at the next sitting I will move:

That, notwithstanding rule 5(1), when the Senate sits on Monday, November 28, it shall meet for the transaction of business at 9 a.m.

LIBRARY OF PARLIAMENT

NOTICE OF MOTION TO REFER TO STANDING JOINT COMMITTEE APPOINTMENT OF MR. WILLIAM ROBERT YOUNG AS LIBRARIAN

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(f), I move:

That the certificate of nomination for William Robert Young, Parliamentary Librarian, tabled in the Senate on November 22, be referred to the Standing Joint Committee on the Library of Parliament for consideration and report; and

That the committee submit its report no later than December 16; and

That a message be sent to the House of Commons to acquaint that House accordingly.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Senator Prud'homme you have a question. Did you want to put a question as to why leave is requested?

Hon. Marcel Prud'homme: Honourable senators, I understand that there will be no occasion for the full Senate to question the new librarian. That is usually a rare opportunity that we are given to acquaint ourselves with this person, as we do with other Officers of Parliament.

I am to understand that in this instance we will not be given this opportunity? He is a great officer. I do not know how old he is, but he could be in that position for 20 or 25 years; Mr. Spicer was there for over 30 years. Only a committee will have the opportunity to look into this matter, and it will then report no later than December 16. However, since it has been proposed that we sit on Saturday and Monday, there must be something in the air that will ensure that we will not be here on December 16. Therefore, to whom will this report be tabled? There will be no discussion here on the matter so it will be accepted by a committee rather than by the full Senate. Is that the preferred process?

• (1430)

Senator Rompkey: That is the process to be followed, but any senator can attend the committee hearings, of course. Perhaps the committee could be advised of the suggestion of Senator Prud'homme. It is in the hands of the committee, and I think we should leave it to the committee to decide on process.

Senator Prud'homme: I regret that we were not given notice of this proposal previously. It would have been a great occasion to have this Officer of Parliament appear before the Committee of the Whole.

I can foresee a stampede in the Senate this week to which we should not be subjected. What happens in the other chamber should not affect us.

I will let this go, but I want to register my strong disagreement.

The Hon. the Speaker: As leave is granted, is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[Earlier]

PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT

NOTICE OF MOTION TO REFER TO BANKING, TRADE AND COMMERCE COMMITTEE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that at the next sitting of the Senate I will move:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to undertake a review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, pursuant to section 72 of the said act; and

That the committee submit its final report no later than June 30, 2006.

ENERGY COSTS ASSISTANCE MEASURES BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-66, to authorize payments to provide assistance in relation to energy costs, housing energy consumption and public transit infrastructure, and to make consequential amendments to certain Acts.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Hon. John G. Bryden: With leave, later this day.

Hon. Noël A. Kinsella (Leader of the Opposition): I would indicate that leave is granted by the official opposition.

The Hon. the Speaker: I take it, honourable senators, that leave is granted.

On motion of Senator Bryden, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

Senator Prud'homme: I know that I am far from your chair, Your Honour, as you told me some time ago.

The Hon. the Speaker: I cannot see you on a point of order, Senator Prud'homme, and we have disposed of the matter. I am sorry that I did not see you. However, I have another bill to read and if you are standing then, you will have a chance to speak.

Senator Prud'homme: I like to proceed logically.

The Hon. the Speaker: Is leave granted, honourable senators, for Senator Prud'homme to make a comment or ask a question?

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted.

Hon. Marcel Prud'homme: I know that what I am about to say will not be welcome, but I find it surprising that a government that was defeated last night can put forward these bills today. Last night's vote should be an indication that the introduction of any bills is rather strange at this time. I am surprised that the official opposition saw fit to agree in the circumstances.

CRIMINAL CODE CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-53, to amend the Criminal Code (proceeds of crime) and the Controlled Drugs and Substances Act and to make consequential amendments to another Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Hon. Bill Rompkey (Deputy Leader of the Government): With leave, at the next sitting of the Senate.

Hon. Pierre Claude Nolin: We are prepared to speak to this bill later this day.

Senator Rompkey: The sponsor of the bill is still working on a speech and will be ready tomorrow.

Senator Nolin: I can be the sponsor later this day.

Senator Rompkey: If leave is granted to discuss it later this day, we would be prepared to hear Senator Nolin.

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted.

On motion of Senator Rompkey, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

FIRST NATIONS OIL AND GAS AND MONEYS MANAGEMENT BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-54, to provide first nations with the option of managing and regulating oil and gas exploration and exploitation and of receiving moneys otherwise held for them by Canada.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

[Translation]

WAGE EARNER PROTECTION PROGRAM BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-55, to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments to other Acts.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

[English]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Marjory LeBreton presented Bill S-47, to amend the Criminal Code (impaired driving) and other Acts.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator LeBreton, bill placed on the Orders of the Day for second reading two days hence.

• (1440)

INTER-PARLIAMENTARY UNION

PARLIAMENTARY PANEL ON INNOVATIVE SOURCES OF FINANCING FOR DEVELOPMENT, J UNE 10, 2005—REPORT TABLED

Hon. Donald H. Oliver: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canadian group of the Inter-Parliamentary Union respecting its participation at the Parliamentary Panel on Innovative Sources of Financing for Development held in New York, June 10, 2005.

ONE HUNDRED AND TWELFTH ASSEMBLY, APRIL 3-8, 2005—REPORT TABLED

Hon. Donald H. Oliver: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canadian group of the Inter-Parliamentary Union respecting its participation at the one hundred and twelfth assembly and related meetings of the Inter-Parliamentary Union held in Manila, Philippines, April 3 to 8, 2005.

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

SOUTHERN LEGISLATIVE CONFERENCE FIFTY-NINTH ANNUAL MEETING, JULY 30-AUGUST 3, 2005— REPORT TABLED

Hon. Jerahmiel S. Grafstein: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Southern Legislative Conference fifty-ninth annual meeting in Mobile, Alabama, July 30 to August 3, 2005.

CANADIAN-AMERICAN BORDER TRADE ALLIANCE CONFERENCE, SEPTEMBER 11-13, 2005— REPORT TABLED

Hon. Jerahmiel S. Grafstein: Honourable senators, pursuant to rule 26, I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Canada-American Border Trade Alliance Conference: The Canadian/U.S. Border — A Unified Focus, held in Washington, D.C., September 11 to 13, 2005.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

MEETING OF STANDING COMMITTEE OF PARLIAMENTARIANS OF ARCTIC REGION, SEPTEMBER 29-30, 2005—REPORT TABLED

Hon. Lorna Milne: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association respecting its participation in meetings of the Standing Committee of Parliamentarians of the Arctic Region held in Oslo, Norway, September 29 to 30, 2005.

AGRICULTURE AND FORESTRY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY RURAL POVERTY

Hon. Hugh Segal: Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Agriculture and Forestry be authorized to examine and report on rural poverty in Canada. In particular, the committee shall be authorized to:

- (a) examine the dimension and depth of rural poverty in Canada;
- (b) conduct an assessment of Canada's comparative standing in this area relative to other OECD countries;
- (c) examine the key drivers of reduced opportunity for rural Canadians;
- (d) provide recommendations for measures mitigating rural poverty and reduced opportunity for rural Canadians; and

That the committee submit its final report no later than December 31, 2006.

[Translation]

YEAR OF THE VETERAN

CONTRIBUTIONS OF ABORIGINAL VETERANS—NOTICE OF INQUIRY

Hon. Aurélien Gill: Honourable senators, I give notice that on Wednesday, November 23, 2005:

I shall call the attention of the Senate to the occasion of the Year of the Veteran and to the contributions of Aboriginal veterans.

[English]

ISSUES OF IMPORTANCE TO GRAND PRAIRIE, ALBERTA

NOTICE OF INQUIRY

Hon. Grant Mitchell: Honourable senators, I give notice that on Thursday next:

I will call the attention of the Senate to issues of importance to the regions in Alberta, with particular emphasis on Grand Prairie.

CANADA-UNITED STATES RELATIONS

MAINE—PROPOSED LIQUEFIED NATURAL GAS TERMINALS—PRESENTATION OF PETITION

Hon. Michael A. Meighen: Honourable senators, I have the honour to present petitions from 121 residents in New Brunswick and elsewhere asking our government to refuse the right of passage to LNG tankers through Head Harbour Passage.

QUESTION PERIOD

INDUSTRY

INVESTMENT CANADA—NOTICE OF NET BENEFIT REGARDING SALE OF TERASEN GAS TO KINDER MORGAN

Hon. Pat Carney: Honourable senators, my question is for the Leader of the Government in the Senate. Industry Canada has given final approval to the \$7-billion sale of B.C. oil and gas transmission company Terasen Gas to the Texas energy giant Kinder Morgan. Nearly 8,000 Canadians expressed concern about the proposed sale of a Canadian energy transmission company to a foreign owner during the earlier provincial approval process before the B.C. Utilities Commission.

Under the Investment Canada Act, as the minister knows, the federal government may approve a foreign takeover in a sensitive industry if it can be shown that there will be net benefits to Canadians in terms of economic, employment and productivity benefits among others. Nothing in the act prohibits the net benefits negotiations from being made public.

Can the minister now tell us what benefits were negotiated by the feds as a result of the Investment Canada review and what penalties will apply if the benefits are not produced? Hon. Jack Austin (Leader of the Government): Honourable senators, I have a delayed answer for Senator Carney today, but I will, with consent, respond to the question on the basis of the information given to me in that delayed answer.

I am advised that section 36 of the Investment Canada Act precludes the minister or any government official from disclosing any information that has been obtained through the administration of that act.

More specifically, section 36 states:

... all information obtained with respect to a Canadian, a non-Canadian or a business by the Minister or an officer or employee of Her Majesty in the course of the administration or enforcement of this Act is privileged and no one shall knowingly communicate or allow to be communicated any such information or allow anyone to inspect or to have access to any such information.

In addition to section 36, section 20 of the Access to Information Act protects from disclosure confidential, financial or commercial information that belongs to a third party. Pursuant to that act, this information can only be communicated with the consent of the third party.

Minister Robillard, acting for Minister Emerson, who recused himself from acting on this file, announced her approval of the acquisition of the Terasen Inc. by Kinder Morgan Inc. on November 16, 2005.

During its review under the Investment Canada Act, the federal government negotiated a wide range of enforceable commitments with the investor, and these commitments assisted the minister in determining that the investment is of net benefit to Canada.

Minister Robillard, in announcing her approval, also advised that with the consent of the parties, a number of commitments made to the government as part of the review process included the following: first, that Kinder Morgan would pursue over \$1.4 billion in major infrastructure projects involving expansion of the Trans Mountain and Corridor pipelines in British Columbia and Alberta, and it is estimated that these projects will add hundreds of new jobs in British Columbia and Alberta; second, capital expenditures to maintain the infrastructure in order to continue to provide safe and reliable service to customers and supply customers with oil, gas and water products and services in accordance with service agreements; third, to maintain head offices for Terasen Gas in Vancouver, British Columbia, and for Terasen Pipelines in Calgary, Alberta, and for Terasen Utility Services in British Columbia, with significant resident Canadian leadership in all of these businesses; and fourth, to add two Canadian citizens to Kinder Morgan's board of directors. That is the parent company in the United States.

Honourable senators, I want to inform the chamber that this matter was submitted to the Governments of British Columbia and Alberta for their review, and the Government of Canada received no dissent.

• (1450)

Honourable senators were previously informed that over 96 per cent of the shareholders of Terasen voted to approve this transaction.

Senator Carney: Honourable senators, I point out that the customers are not necessarily the shareholders of Terasen. I am grateful for the information we have been given, but the minister is aware that several multi-billion dollar transactions are expected to take place in the energy and pipeline sectors as global interest in Canada's energy resources increases. Kinder Morgan does have a history of safety infractions in its U.S. system and there are concerns voiced by the Canadian communities affected by the sale.

Our understanding is that the details of the net benefit review are very much subject to ministerial discretion. Nothing prohibits making this information available. Why can Canadians not know the terms negotiated by the federal government and the sanctions and penalties that would apply if these benefits are not met? What is the big deal about disclosing net benefits?

Senator Austin: Honourable senators, I would like Senator Carney to reflect on the provisions of the two statutes to which I have referred. I am at a loss to believe that she can maintain that there should be access to this information given the answer I have given her, but she can consider the written answer.

The B.C. Public Utilities Commission reviewed this matter, received briefs and recommended the acceptance of this file. I find Senator Carney's questions interesting, coming as they do from a former member of a government whose leader said Canada was open for business.

Senator Carney: I was a member of the government that brought in the Investment Canada Act. That act specified that net benefits had to be shown in the sale of sensitive Canadian infrastructure, including oil and gas pipeline transmission and cultural industries. We are open to such sales, but we want to be assured of Canadian content in sensitive issues.

FISHERIES AND OCEANS

BRITISH COLUMBIA— DECOMMISSIONING OF FOG HORNS

Hon. Pat Carney: Honourable senators, I now want to switch to another subject dear to the minister's heart.

Last December, federal Fisheries Minister Geoff Regan decommissioned B.C. coast foghorns on the grounds that there was not enough fog on the B.C. coastline to justify keeping them in operation. As a member of an island community, I and my other coastal colleagues call this decision ludicrous.

The minister shortly afterwards, in the face of laughter up and down the coast, recommissioned three foghorns at Cape Mudge, Pulteney Point and Chatham Point. Now I have information that the Department of Fisheries and Oceans plans to announce, as a

special Christmas present, that they will reconnect the twelve foghorns on the B.C. west coast. I understand that includes: Cape Beale on the west coast of Vancouver Island; Langara Point on the north end of the Queen Charlotte Islands; Dryad Point on the northeast end of Campbell Island; Addenbroke Island on the Inside Passage; Bonilla Island, south of Prince Rupert; Egg Island, north of Port Hardy; Nootka Island on the west coast of Vancouver Island; Triple Island, west of Prince Rupert; Pachena Point, south of Bamfield; Estevan Point, northwest of Tofino; and Quatsino, at the entrance to Quatsino Sound. Cape Scott is under consideration at the northwestern tip of Vancouver Island. The B.C. maritime community would be very supportive of this Christmas present and would welcome a decision to reconnect the foghorns.

Can the Leader of the Government in the Senate confirm this information at this time?

Hon. Jack Austin (Leader of the Government): Honourable senators, I would like to be in a position to confirm the information at this very moment, but I will have to make inquiries.

NATIONAL DEFENCE

PROGRAM TO REPLACE TACTICAL AIR FLEET

Hon. J. Michael Forrestall: Honourable senators, my question has to do with the pre-election goodies being announced. It is widely believed and understood that the government today will announce a control process that will replace our C-138 series tactical air lift with new aircraft. Can the minister give us some indication of the scope and time period of this probability?

Hon. Jack Austin (Leader of the Government): Senator Forrestall has constantly maintained that equipment operated by the military, particularly aircraft equipment and naval equipment, needs to be replaced. I am pleased to say that the Government of Canada is announcing today that it will move forward with competitive procurement of a new tactical air fleet for the Canadian Forces. The tactical air fleet project will see the purchase of a minimum of 16 new aircraft valued at between \$4 billion and \$5 billion, including a 20-year inservice support contract. This purchase is a priority for the Canadian Forces.

As Senator Forrestall has so often said, the aging Hercules fleet needs to be replaced. Senator Forrestall is being listened to, and I am sure the other side appreciates that fact.

Honourable senators, this new tactical air lift aircraft will replace thirteen older CC-130 Hercules, which have been the workhorses for the Canadian Forces transport fleet. There will be a competitive procurement process for these aircraft, and it will begin immediately without compromising operational requirements, quality or cost.

The procurement approach, a solicitation of interest and qualification, will be pursued to select the right aircraft for the Canadian Forces. A solicitation of interest and qualification is a new approach to procurement that invites potential suppliers to

indicate their interest and demonstrate their ability to meet mandatory criteria. We believe this is a fair, competitive and transparent process.

Some Hon. Senators: Hear, hear!

Senator Forrestall: It will not be the J series of our current equipment, will it?

By the way, where is our replacement for the Sea Kings? Could the Leader of the Government tell us why the government has not announced when it will award a contract to replace not just the fixed-wing aircraft, represented by the Hercules, but the Buffalo fleet as well so that our fixed-wing search and rescue capabilities will not be further impaired?

Senator Austin: Honourable senators, I would like to be in a position to say that the entire \$13.5-billion package, which included helicopter replacement and fixed-wing aircraft replacement, was also proceeding at this particular time.

There are factors with respect to supplier information, mandatory criteria and the determination of a procurement process that have not yet been settled. Senator Forrestall asked me some three weeks ago a very perceptive question regarding a tradeoff of the needs of our Canadian Forces and the requirement, through procurement processes, that suppliers be given a fair and transparent opportunity to meet those mandatory criteria.

Senator Forrestall: Does the minister know the age of the J series aircraft?

Senator Austin: Honourable senators, I have been advised by General Hillier that it is the oldest Hercules fleet in operation today anywhere.

Senator Forrestall: Does he know that its likely successor is as old?

• (1500)

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

MANITOBA—SWAN LAKE FIRST NATION— PROCESSING OF LAND CLAIM

Hon. Gerry St. Germain: Honourable senators, my question for the Leader of the Government in the Senate concerns the Swan Lake First Nation in Manitoba.

For up to 10 years, and since the passage of Bill C-14, the Manitoba Claim Settlements Implementation Act, the Swan Lake council has been working to have three parcels of land added to their reserve lands. I am informed that an agreement in principle has been concluded and sent to the Minister of Indian Affairs and Northern Development. I understand as well that the Government of Manitoba is about to sign, or has just signed, an Order in Council to transfer the title to the federal Crown. The bottom line is simply this: The remaining step to make these parcels reserve land requires the signature of the Minister of Indian Affairs.

What is the status of the transfer and registration of these lands as reserve lands for the use and benefit of the Swan Lake First Nation? Swan Lake has a number of economic development plans that are on hold as a result of this delay.

To be fair, honourable senators, one cannot reasonably expect the Leader of the Government to have an answer today, but perhaps he will report his findings to the chamber as soon as possible. It is to be hoped that the minister will resolve the matter post-haste. After all, this is something that, nine years ago, was supposed to take six months.

Hon. Jack Austin (Leader of the Government): Honourable senators, I appreciate Senator St. Germain noting that I did not have notice of his question. It is a question seeking a particular set of facts and information, and I will pursue it.

There have been a number of delays in addition to the one to which Senator St. Germain refers. The department has not moved as quickly as it could have with respect to the circumstances that the honourable senator described in his question. That is to say, legal agreements entered into, the territory to be transferred defined, but the transaction not closed. The department is now very much aware that this matter is to be treated at the head of its list of priorities.

Senator St. Germain: Honourable senators, I thank the honourable minister for his response. I am looking forward to a follow-up.

AUDITOR GENERAL'S REPORT— ABSENCE OF MANAGEMENT FRAMEWORK TO ADDRESS FIRST NATIONS LAND CLAIMS

Hon. Gerry St. Germain: The Auditor General's report, which was released earlier today, looked into the broader issue of the mismanagement of treaty land entitlement agreements. The Auditor General found inadequate planning, incomplete data, the absence of a management framework, and that the department has limited formal and informal communications with the First Nations involved in the land conversion processes.

It has also found many serious deficiencies in how the Department of Indian Affairs and Northern Development manages process requirements that are within its control, such as delays in land surveys. As a result, the progress has been quite limited, despite the fact that the federal government has committed \$500 million to meeting the obligations of First Nations in Manitoba and Saskatchewan since 1992.

These are lands to which these people are entitled. The lands were granted to them under treaty, and then were removed from them. When will the federal government begin addressing this problem in managing the program, given that there have been so many delays? The honourable minister has referred to them. I think that he is being candid and open with us. However, there must be a starting process.

Hon. Jack Austin (Leader of the Government): Honourable senators, I appreciate the reference to the Auditor General's report, which was tabled just a short time ago here in the chamber. I believe the Auditor General has given profile to an

issue that needs to be dealt with in an accelerated way. I am told by the Minister of Indian Affairs and Northern Development, the Honourable Andy Scott, that he intends to give this matter aggressive attention.

DISMANTLING OF DEPARTMENT

Hon. Gerry St. Germain: Honourable senators, the management problems described by the Auditor General today are further proof of the widespread systemic problems in the department.

Last year, the Auditor General told us that the gap between Aboriginal educational levels and the general population had grown. Apparently, the gap is at 28 years. Today, we see that the federal government is not really living up to its obligations as it should in converting the lands to reserve status.

When will the government take a serious look at dismantling this huge bureaucracy that is not servicing its clients, namely, our Aboriginal peoples? This is the question that many Aboriginal peoples put to Senator Sibbeston and me as we travelled across the country with the other able members of the Standing Senate Committee on Aboriginal Peoples.

I am not trying to put the Leader of the Government on the spot. However, he is the government spokesman in this place. He is the messenger. Kindly take the message back and let us start the process of dismantling this organization that was designed to service a certain clientele but which provides no service whatsoever.

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator St. Germain is overly argumentative when it comes to the performance of the Department of Indian Affairs and Northern Development. The department delivers solid services and its performance level is to be admired. However, its task is one of the most difficult in Canada.

I would like to draw to the attention of honourable senators my answer to the question which Senator St. Germain has asked here today, and which has been asked before in another forum. The Government of Canada is launched on the most significant program ever to deal with relations between Aboriginal and non-Aboriginal society in Canada. Starting on Thursday of this week we are to hold in Kelowna, British Columbia a first ministers' meeting, including premiers of provinces and territories, along with Aboriginal leaders of the five major Aboriginal organizations, as well as regional Aboriginal leaders. We are about to launch a commitment process that commits to federal-provincial-territorial programs and the necessary funding for those programs in education, health, housing, economic development and governance.

Nothing should stop the holding of that meeting and the commitment which the Government of Canada has put itself in a position to make to the Aboriginal communities of this country. This is the most meaningful step from the point of view of the Assembly of First Nations and other Aboriginal leadership. They were eager that the parliamentary process not interfere with this particular meeting, and it appears that the parliamentary process will not do so.

I want to make it clear to honourable senators that at this conference the minister will be in a position to make commitments on behalf of the Government of Canada which will be very substantial in these areas. I look forward, as I hope all honourable senators do, to the success of this conference and to the success of the trilateral cooperation which has been developed in the last two years of this government.

I want to make it clear that the change of culture that was required to move forward was a true partnership between governments on the one hand and Aboriginal leaders on the other. That partnership has resulted in the programs that are now being discussed and which will be committed to, I hope, in Kelowna this week.

Honourable senators, it is not easy — and Senator St. Germain knows it as well as anyone in this chamber — to change, gradually but perceptively, the attitudes of the non-Aboriginal communities of Canada toward the Aboriginal communities, and the Aboriginal communities of Canada toward the non-Aboriginal communities. That is the process that we have underway. Only through that process will we achieve the goals that we would like to achieve.

Senator St. Germain: Honourable senators, my question is not meant to be argumentative. However, the Department of Indian Affairs and Northern Development is responsible for education for our native peoples, and there is a 28-year gap. We heard in committee this morning in regard to tourism that they are 40 years behind. We need only look at the problems in relation to health and the water situation on many of our reserves. These, too, are under the direct auspices of this department.

• (1510)

We should have done away with this department when we were in government. We should have commenced with the dismantling of this department because it was not providing the services then, nor is it now. That is the question, and I do not mean to be argumentative.

I hope that this conference will be a real success. If there is anything I hope the government succeeds in, it is to resolve the Third World conditions of our Aboriginal peoples. I am sincere in that. However, how do we dismantle the problem of this dismal lifestyle for our Aboriginal peoples, with respect to education, housing, et cetera?

Senator Austin: Honourable senators, it is the way that I have just described with respect to the process that takes us to the Kelowna meeting. I hope Senator St. Germain will be able to attend that meeting and see for himself what takes place.

[Translation]

INDUSTRY

RIGHTS OF LOBBYISTS REGARDING LEGISLATION BEFORE PARLIAMENT

Hon. Madeleine Plamondon: Honourable senators, my question is for the Leader of the Government in the Senate. When a bill has been introduced in Parliament, can a lobbyist work directly for a

minister? Conversely, can someone who works for a minister leave their job and become a lobbyist?

[English]

Hon. Jack Austin (Leader of the Government): The honourable senator is asking for answers to legal questions. I would refer her to the Law Clerk of the Senate for the information she is seeking.

PUBLIC WORKS AND GOVERNMENT SERVICES

AUDITOR GENERAL'S REPORT—ACCURACY OF PUBLIC OPINION SURVEYS— SPIN-OFF DISCOUNTS TO LIBERAL PARTY

Hon. David Tkachuk: Honourable senators, the Public Opinion Research Directorate of the Department of Public Works manages the public opinion surveys undertaken by government departments each year. The Auditor General has found serious problems with the way in which the directorate manages these surveys in particular, and heavily criticizes it for not ensuring that the methodology of these surveys is correct. Departments are paying up to \$15 million per year for surveys that may not be adequate, with these same departments, in turn, offering inadequate information to Parliament and the public.

Could the Leader of the Government advise the Senate as to why the government continues to issue public opinion survey contracts to its friends without ensuring that such basic survey issues as population coverage and response rates are addressed? Why is the government more concerned with rushing these contracts out the door than with ensuring that what comes back is accurate?

Hon. Jack Austin (Leader of the Government): Honourable senators, I cannot adopt the accuracy of the allegations contained in Senator Tkachuk's question. However, I will look at the report of the Auditor General, which I have not yet seen, and to the extent that I am able to answer questions on behalf of the government with respect to this area of the Auditor General's report, I will try to do so.

Senator Tkachuk: In the past nine years, the amount of public opinion research carried out has jumped by 300 per cent. What justification is there for carrying out 600 public opinion projects each and every year?

Senator Austin: Honourable senators, Senator Stratton often looks at me and I can hear his thinking. He says basically, "You are lecturing," and, unfortunately, the answer that I would want to give would be a bit long and a bit of a lecture, but I will try to do it very simply in Senator Stratton's style and say that a government or any institution, whether it is academic or a business performing services for the public, needs to know what services the public see as priority interests, what services they want addressed and what concerns they want the government to address. It is natural and normal, and all governments consult the public through polls.

Senator Tkachuk: I would hope that members of Parliament would be able to provide most of that service. Considering the quality, quantity and volume of the research, can the minister assure the Senate that the Liberal Party did not receive any discounts for their own polling, in whole or in part, by any of these polling companies that did work for the Liberal government?

Senator Austin: Honourable senators, I want to address the two points that I heard. First, elected members of Parliament are people who offer advice and information from the perspective of their particular political interests. It is hoped that these polls do not reflect that particular screen. However, with respect to the question of discounts, I would answer the question again by saying that if Senator Tkachuk has any information or wishes to make any charges, he should do so.

[Translation]

ANSWERS TO ORDER PAPER QUESTIONS TABLED

PRIVY COUNCIL OFFICE—
GOVERNOR IN COUNCIL APPOINTMENTS

Hon. Bill Rompkey (Deputy Leader of the Government) tabled the answer to Question No. 20 on the Order Paper—by Senator Downe.

SERVICE CANADA

Hon. Bill Rompkey (Deputy Leader of the Government) tabled the answer to Question No. 22 on the Order Paper—by Senator Downe.

[English]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting delayed answers to eight oral questions raised in the Senate.

The first is in response to an oral question raised on October 20 by Senator Comeau regarding the privatization of resources and the use of offshore labour.

The second is in response to an oral question raised in the Senate on November 3 by Senator Dyck regarding compensation to Aboriginal veterans for unequal benefits package.

The third is in response to an oral question raised in the Senate on November 2 by Senator Segal, concerning comments made by Iranian president Mahmoud Ahmadinejad.

The fourth is in response to an oral question raised in the Senate on October 25 by Senator Keon, regarding first ministers' conference benchmarks for wait times.

The next one is in response to an oral question raised in the Senate on Thursday, October 20, by Senator Forrestall, regarding the sovereignty of Hans Island.

The sixth one is in response to an oral question raised in the Senate on October 26 by Senator Tkachuk regarding access to information and privacy.

The seventh is in response to an oral question raised in the Senate on November 3 by Senator Adams regarding Nunavut consultations — turbot.

The eighth is in response to oral questions raised in the Senate on November 1 and 2 by Senators Carney and Murray regarding the Investment Canada Act.

FISHERIES AND OCEANS

PRIVATIZATION OF RESOURCES— USE OF OFFSHORE LABOUR

(Response to question raised by Hon. Gerald J. Comeau on October 20, 2005)

The Department of Fisheries and Oceans' role with regards to the fisheries resource is to maintain the productivity of Canada's fisheries and oceans, protect marine and freshwater resources, and safeguard the long-term viability of the resource base by ensuring that it is exploited sustainably. The fishery is a common property resource to be managed for the benefit of all Canadians, and DFO recognizes that fisheries management decisions can have broad impacts on the socio-economic status of coastal communities.

DFO does not have jurisdiction over fish processing decisions. The Department's focus is on — and relationship is with — fish harvesters. The Department endeavours to provide the best possible circumstances for fish harvesters to harvest the resource within the resource's constraints as a naturally fluctuating, common property resource that is impacted by a wide range of economic, ecological and social factors.

Over the past decade, the fishing industry and fishery managers have been dealing with numerous changes at an exceptionally fast pace including new technologies, new species, new values on existing species, and new markets; emergence and expansion of other industries that interact with commercial, Aboriginal and recreational fisheries; addressing court decisions respecting Aboriginal and treaty rights; and, increased resource user expectations regarding participation in decision-making and resource management.

In order to develop a cohesive plan to modernize fisheries management practices to reflect the new characteristics of the industry, DFO has engaged resource users, Aboriginal groups, Provinces and Territories, and others with an interest in the fisheries resource in extensive policy and program reviews. These reviews have included the Atlantic Fisheries Policy Review, Pacific New Directions and Pacific Fisheries Reform, and the Aboriginal Fisheries Strategy Review. Through these reviews, DFO has developed and confirmed a clear direction for the future of fisheries management which it is implementing through Fisheries Management Renewal (FMR), a package of program

renewal undertakings that promote predictability, stability and transparency, and a strong and healthy fisheries resource. The overarching goal for FMR is to develop a new fisheries management governance model that will enable DFO and resource users to meet conservation objectives of the fishery, and that will also enable resource users to respond to the economic forces that impact their industry. A major element of FMR is shared stewardship which promotes a renewed relationship with resource users based on shared responsibility, decision-making and accountability. Shared stewardship is fundamental in order to hold resource users accountable for their actions, which have a direct impact upon conservation objectives, the status of the resource and the socio-economic status of fisheries-dependent communities.

The position of the Department with regard to individual quotas is consistent with the direction being pursued under FMR. Individual quotas (IQs) are regarded by DFO as only one of many management tools that can be used to meet the objectives of the fishery, and are an acceptable management regime that has wide support from stakeholders involved in the commercial fisheries on the Atlantic and the Pacific coasts. As long as conservation requirements are met, the position of the Department is that fleets may voluntary adopt an individual quota regime. Individual transferable quotas are also a powerful tool to maintain capacity in balance with the resource, and to allow industry to rationalize on its own without the need of expensive licence retirement programs. It should be noted that individual quotas are only conditions attached to licences and are thus a privilege granted at the discretion of the Minister of Fisheries and Oceans. Licences and individual quotas are not property and their issuance does not represent the privatization of the fishery.

On the question of fish caught being transported to other countries for processing, fish become the property of the harvesting fisher or company, and thus fall under provincial jurisdiction as property.

As for export of goods to foreign countries or use of labour in other countries, this falls under the purview of the Department of International Trade.

VETERANS AFFAIRS

COMPENSATION TO ABORIGINAL VETERANS FOR UNEQUAL BENEFITS PACKAGE

(Response to question raised by Hon. Lillian Eva Dyck on November 3, 2005)

The Government of Canada is grateful to all Aboriginal Veterans for their wartime sacrifice and dedication and is committed to fairness and equity in providing for all Canadians who served their country in wartime.

From file reviews, research and discussions during the National Round Table on First Nations Veterans Issues in 2000, it is clear that most First Nations Veterans received the demobilization benefit for which they were eligible after

the wars. However, some First Nations Veterans who chose to return to their reserve communities after the wars had to deal with an extra layer of bureaucracy in order to receive their demobilization benefits. It is unclear whether all of these Veterans received their demobilization benefit.

This is why, on June 21, 2002, the Government of Canada responded to the National Round Table Report and grievances of First Nations Veterans with the offer of ex-gratia payments of \$20,000 to each living First Nations Veteran or their surviving spouse who returned to reserves after the wars.

Although there was and still is, outstanding litigation by First Nations Veterans on this issue, the offer was not based on any legal liability. The Government of Canada believes that it is a fair offer and is comparable to other ex-gratia payments offered to Merchant Navy Veterans and Hong Kong Prisoners of War.

The situation for Métis and Non-Status Indian Veterans is different because they were not affected by the same administrative realities that applied to First Nations Veterans who settled on reserves after the wars, though there remain deeply held views by Métis Veterans that they too were treated unfairly upon their return from the wars. Research, conducted to date, has not substantiated allegations of differential treatment in terms of the benefits provided to Métis and Non-Status Indian Veterans. Offers have been made by the Minister of Veterans Affairs Canada to review the individual files of Métis Veterans who feel they did not receive any demobilization benefits after the wars.

Veterans Affairs Canada (VAC) is broadening its outreach strategy for Aboriginal Veterans in order to facilitate communication and ensure veterans and their spouses benefit from the full range of VAC programs and benefits. In keeping with the outreach strategy, VAC has established a senior officer who will be the first point of contact within the department for Aboriginal Veterans, spouses and organizations.

FOREIGN AFFAIRS

IRAN—COMMENTS BY PRESIDENT WITH REGARD TO ISRAEL

(Response to question raised by Hon. Hugh Segal on November 2, 2005)

Statements by Iranian spokespeople made clear that they were well aware of the Prime Minister's and Minister of Foreign Affairs' condemnations on October 26, 2005.

In addition, the Iranian Chargé d'affaires was called in to Foreign Affairs Canada to be asked for an explanation. A further demarche in Tehran was unnecessary.

The Government of Iran is in no doubt as to Canada's reaction to the verbal attack on Israel by the Iranian President.

The Canadian Embassy in Tehran has no ability to force the Government of Iran to accept a message, which is why these kinds of messages are officially delivered by the Ministry of Foreign Affairs to a resident embassy.

All of our like-minded international partners delivered messages of condemnation in their capitals. Very few chose to repeat the message from their embassies in Tehran.

Canada tabled a resolution in the UN General Assembly on 2 November addressing Canadian and international concerns about the human rights situation in Iran.

HEALTH

FIRST MINISTERS CONFERENCE— BENCHMARKS FOR WAIT TIMES

(Response to question raised by Hon. Wilbert J. Keon on October 25, 2005)

Governments agreed in the 10-Year Plan to establish evidence-based benchmarks as well as comparable indicators of access by December 31, 2005. Governments agreed to the commitments in order to inform Canadians of the progress made in reducing wait times. At the recent Health Ministers Meeting, Ministers reaffirmed their FMM commitments, and announced that evidence-based benchmarks in all five areas as well as comparable indicators of access will be established prior to the December 31, 2005 deadline.

What is key to also highlight, is that governments are working to reduce wait times, reflecting their different starting points and priorities, by transforming the way access is managed involving improvements in the way wait times are monitored, measured and managed such as: developing improved information systems enabling policy decisions based on reliable wait times data; ongoing research to develop more benchmarks; funding additional procedures; adding new spaces in medical schools; posting wait times on web sites; developing standard prioritization systems; and, communicating information to Canadians.

The Health Minister's Meeting communiqué states that all jurisdictions will establish, by December 31, 2005 a first set of evidence based benchmarks in the five priority areas. Work with respect to establishing the benchmarks is currently being finalized. Details will be forthcoming.

Health Ministers are committed to demonstrating progress to Canadians in the reduction of waiting times for medially necessary health services. Inspired by the 10-Year Plan, governments are not only setting evidence based benchmarks in the five priority areas where evidence exists but, in the absence of evidence, setting access targets as well as committing to a joint research program to further inform the development of benchmarks.

Building on the work already undertaken by the Canadian Institutes of Health Research, this research program will develop a body of clinical evidence demonstrating how wait times affect patients' health to

support additional benchmarks and refine existing ones. December 31, 2005 is the first deadline of the 10-Year Plan, a starting point for benchmarks and a first step to a long-term process.

More importantly for Canadians, all P/T governments agreed to improve the management of access and achieve reductions in wait times in priority areas by March 31, 2007. Wait times in some areas are already dropping and the Government of Canada is confident that Canadians will continue to see wait times shrink as governments work to transform the way access is managed and report to Canadians on progress made.

The 10-Year Plan provides a framework, including additional funding, upon which governments are introducing numerous initiatives to improve access to health care services which build on the ongoing structural reforms in our health system.

Throughout this process, Canadians will be informed of governments' progress in reducing wait times with benchmarks based on rigorous research, access targets and comparable indicators. Given such a comprehensive package to improve access, Canada will be a world leader in dealing with wait times.

FOREIGN AFFAIRS

DENMARK—HANS ISLAND SOVEREIGNTY CLAIM

(Response to question raised by Hon. J. Michael Forrestall on October 20, 2005)

As Canada has always treated Hans Island as Canadian sovereign territory, no notice was sent to Denmark before or subsequent to any Canadian visit. In recent years, when Canada has visited Hans Island, we have received diplomatic notes of protest from Denmark after the fact. Similarly, Canada protested unauthorized visits to, or activities on, the island by Danish officials.

In July 2002, the Department of Foreign Affairs and International Trade received a request from the Danish Embassy in Washington DC for diplomatic clearance for the Danish Naval Inspection Vessel "Vaedderen", noting that "during it's expedition to Hans (Hans Island) in August 2002 weather might force the vessel to pass through Canadian waters and possibly anchor there." In its reply to the Danish request, Canada used the opportunity to reinforce its legal position concerning Hans Island by informing Denmark that Canada had approved the proposed visit and granted permission to the "Vaedderen" to travel through Canadian waters as necessary to reach and to visit Hans Island, and for a helicopter from the "Vaedderen" to fly across Canadian waters for the purpose of ice reconnaissance.

In 2003 Department of Foreign Affairs and International Trade received a similar request from Denmark for diplomatic clearance for another one of its vessels, the "Triton". Canada again used the opportunity to reinforce its position concerning Hans Island by responding that Canada

had approved the proposed visit and had granted permission to "HMDS Triton" to travel through Canadian waters as necessary to reach and to visit Hans Island, and for a helicopter from the HMDS Triton to fly across Canadian waters for the purpose of ice reconnaissance for the HMDS Triton.

Having learned that Danish officials raised the Danish flag on the island during both the 2002 and 2003 visits, Canada protested these actions by diplomatic note in July 2004.

No diplomatic notification was sent to Denmark in advance of the Canadian Ranger visit or the visit by the Minister of National Defence which occurred earlier this year.

In the Joint Statement issued by the Honourable Pierre Pettigrew, Minister of Foreign Affairs and his Danish counterpart Minister Moller after their meeting on the margins of the United Nations General Assembly (UNGA) on September 19, 2005, there is a commitment to continue to work towards a long term resolution of this dispute. Canadian and Danish officials have met once since the UNGA meeting, and will meet again in the new year.

The Joint Statement of September also commits the parties, without prejudice to their respective legal claims, inform each other of activities related to Hans Island. Likewise, all contact by either side with Hans Island will be carried out in a low key and restrained manner.

PRIVY COUNCIL OFFICE

RESOURCES TO RESPOND TO ACCESS TO INFORMATION REQUESTS

(Response to question raised by Hon. David Tkachuk on October 26, 2005)

Privy Council Office has allocated more resources to the Access to Information and Privacy Office (ATIP), which is in the process of staffing by means of secondments and deployments from other departments, an in-house development program, appointments from current programs such as PCO's "Career on the Move".

For the period 1998 to 2004, the period the Information Commissioner has published his report cards, the Privy Council Office has received an F, an A, a D, a C and most recently, another F. It is clear that the PCO's report card has fluctuated based on volume of requests received and the number of resources available to manage them. In 1999, the year the "A" grade was received, 202 requests were received. In 2004-2005, 480 requests were received, more than double the 1999 figure.

Thus it is clear that for most years of the Report Cards, not just the previous fiscal year, PCO has been struggling to meet its Access deadlines. PCO is committed to improving,

and will continue to review its resourcing of the ATIP office so that, as the Prime Minister's department, it can meet its Access commitments to all its clients in a fair and timely manner in the years to come.

FISHERIES AND OCEANS

NUNAVUT—CONSULTATION WITH STAKEHOLDERS ON NEW QUOTA

(Response to question raised by Hon. Willie Adams on November 3, 2005)

Industry stakeholders, provinces, Nunavut and the Nunavut Wildlife Management Board (NWMB) were asked to provide comments on the 0A turbot increase through written correspondence between the dates of October 25 and November 1, 2005.

This includes the following industry stakeholders in Nunavut:

- Baffin Fisheries Coalition
- Qikiqtaaluk Corporation
- Pangnirtung Fisheries Ltd./Cumberland Sound Fisheries Ltd.
- Hunters and Trappers Associations
- Other groups active in the turbot and shrimp fisheries

It is expected that the key groups or individuals consulted will discuss the issue with their respective members in order to provide a position on the issue.

Pursuant to section 15.3.4 of the Nunavut Land Claims Agreement

"Government shall seek the advice of the NWMB with respect to any wildlife management decision in Zones I and II, which would affect the substance and value of Inuit harvesting rights and opportunities within the marine areas of the Nunavut Settlement Area (NSA). The NWMB shall provide relevant information to Government that would assist in wildlife management beyond the marine areas of the NSA."

If individuals or groups of individuals from Nunavut who receive allocations of quota through the NWMB or other stakeholder groups wish to submit separate comments on the issue of the proposed 0A turbot increase, these will be taken into consideration in recommendations provided to the Minister of Fisheries and Oceans.

INDUSTRY

INVESTMENT CANADA—KINDER MORGAN TAKEOVER OF TERASEN GAS—DUKE ENERGY TAKEOVER OF WESTCOAST ENERGY—NOTICES OF NET BENEFIT—PUBLIC DISCLOSURE OF DECISIONS

(Response to questions raised by Hon. Pat Carney and Hon. Lowell Murray on November 1 and 2, 2005)

Section 36 of the *Investment Canada Act* (the "ICA") precludes the Minister or any government official from disclosing any information which has been obtained through the administration of the ICA. More specifically, section 36 states that "...all information obtained with respect to a Canadian, a non-Canadian or a business by the Minister or an officer or employee of Her Majesty in the course of the administration or the enforcement of this Act is privileged and no one shall knowingly communicate or allow to be communicated any such information or allow anyone to inspect or to have access to any such information..." This provision has been strictly interpreted since 1985 and investors have come to rely on this strict interpretation when they provide confidential commercial information during the review process.

In addition to s. 36 of the ICA, s. 20 of the Access to Information Act (the "ATIA") protects from disclosure confidential financial or commercial information that belongs to a third party. Pursuant to the ATIA, this information can only be communicated with the consent of the third party.

These rules have been established in recognition of the sensitive nature of the confidential business information which is provided by investors during the review process.

Any information which the investor agrees in writing to make public, however, can be made public, as can information already been made public by the investor.

Minister Robillard announced her approval of the acquisition of the Terasen Inc. by Kinder Morgan Inc. on November 16, 2005. During its review, under the *Investment Canada Act*, the federal government negotiated a wide range of enforceable commitments with the investor. These commitments assisted the Minister in determining that the investment is of net benefit to Canada.

Kinder Morgan has ambitious plans for major infrastructure projects to expand pipeline capacity in British Columbia and Alberta, and has the financial resources required to realize its plan. Kinder Morgan has made public a number of the commitments it has made to the government as part of the review process, these include the following:

• to pursue over C\$1.4 billion in major infrastructure projects involving the expansion of the Trans Mountain and the Corridor pipelines in British Columbia and Alberta. It is estimated that these projects will add hundreds of new jobs in British Columbia and Alberta;

- to capital expenditures to maintain infrastructure in order to continue to provide safe and reliable service to customers and to supply customers with oil, gas and water products and services in accordance with service agreements;
- to maintain head offices for Terasen Gas in the Vancouver, British Columbia area, for Terasen Pipelines in Calgary, Alberta and for Terasen Utility Services in British Columbia, with significant resident Canadian leadership in all of these businesses; and,
- to add two Canadian citizens to Kinder Morgan's Board of Directors.

You should also be aware that any Canadian operation of foreign enterprises is required to conform to all Canadian rules and regulations. The pipelines acquired by Kinder Morgan continue to be regulated by both the British Columbia Utilities Commission and the National Energy Board. Also, Kinder Morgan will be required to conform to all Canadian environmental legislation for its Canadian operations.

It should be noted that decisions under the ICA are published on the Investment Review Division Internet site at http://strategis.ic.gc.ca/epic/internet/inica-lic.nsf/en/hk00014e.html. The names of the investor and the Canadian business, and a short description of the latter's business are published.

Established precedents going back to the time in which this legislation was put in place by the Mulroney government.

Section 36 of the *Investment Canada Act* (the "ICA") precludes the Minister or Industry Canada's officials from disclosing any information which has been obtained through the administration of the ICA. This provision has been strictly interpreted since 1985 and investors have come to rely on this strict interpretation when they provide confidential commercial information during the review process.

There are exceptions to the confidentiality provisions of the ICA. These include the possibility of disclosing information obtained in the course of the administration of the ICA, where the Minister deems it to be in the public interest:

- information for the purposes of legal proceedings relating to the administration or enforcement of this Act;
- information contained in any written undertaking given to Her Majesty in right of Canada relating to an investment that the Minister is satisfied or is deemed to be satisfied is likely to be of net benefit to Canada;
- information to which the public has access;

- information the communication or disclosure of which has been authorized in writing by the Canadian or the non-Canadian to which the information relates:
- information contained in any receipt, notice or demand sent by the Minister; and,
- information to which a person is otherwise legally entitled.

Although the above provides the possibility of disclosing certain information, in practice information will only be disclosed with the consent of the investor, or once the investor has made the information public. For example, the government has issued press releases after the approval of certain high profile acquisitions, with the consent and approval of the investor. The press release contains a statement indicating that an application has been approved and a summary of the more important benefits of the acquisition or a summary of the undertakings the investor has provided. In such cases, the press release can be issued by the government because the investor has provided consent in writing.

OFFICIAL LANGUAGES ACT

BILL TO AMEND—MESSAGE FROM COMMONS—AMENDMENTS CONCURRED IN

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-3, to amend the Official Languages Act (promotion of English and French), and acquainting the Senate that they had passed this bill with certain amendments.

(For text of amendments, see today's Journals of the Senate.)

The Hon. the Speaker: Honourable senators, when shall the amendments be taken into consideration?

• (1520)

Hon. Marcel Prud'homme: Honourable senators, I have a difficulty with the French that was given to us by the House of Commons, so I will refer to those who are good in French.

[Translation]

In French it reads:

Le bureau du conseiller sénatorial en éthique — that is us — et le commissariat à l'éthique...

If Senator Nolin says it is written that way in the legislation, that is good enough for me.

[English]

The Hon. the Speaker: The clarification is duly noted.

Hon. Gerald J. Comeau: Honourable senators, I have had the opportunity to discuss this message with Senator Chaput, who is the sponsor of the bill. She has been extremely interested in the evolution of this bill. With that in mind, I move that these amendments be concurred in now, without further amendment, and that a message be sent to the House of Commons to inform that House accordingly.

Hon. Senators: Hear, hear!

The Hon. the Speaker: I probably do not need to do this, but I want to remind honourable senators of rule 59(8), which states with respect to this type of message from the House:

Consideration forthwith or at a future sitting of Commons amendments to a public bill —

- can be proceeded with without notice.

It is moved by the Honourable Senator Comeau, seconded by the Honourable Senator Chaput, that these amendments be concurred in and no further amendments be proposed, and that a message be sent to the House of Commons to inform that House accordingly.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

CRIMINAL CODE CULTURAL PROPERTY EXPORT AND IMPORT ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-37, to amend the Criminal Code and Cultural Property Export and Import Act, and acquainting the Senate that they had passed this bill without amendment.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, earlier today under Notices of Inquiries, Senator Gill gave notice that on November 23 he would draw the attention of the Senate to the Year of the Veteran. The Notice of Inquiry requires two-days' notice under our rules, and I put it that way. On behalf of Senator Gill, there is a request that it be done on one-day's notice. Is leave granted, honourable senators?

Hon. Senators: Agreed.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, we have with us today guest pages from the House of Commons. Malia Mercer of Kingston, Ontario, is studying at the University of Ottawa's School of Management.

[Translation]

Andrée Carpentier is studying at the University of Ottawa in the School of Management. She is majoring in international trade. Andrée comes from Regina, Saskatchewan. Welcome, both of you.

[English]

ORDERS OF THE DAY

ENERGY COSTS ASSISTANCE MEASURES BILL

SECOND READING

Hon. John G. Bryden moved second reading of Bill C-66, to authorize payments to provide assistance in relation to energy costs, housing energy consumption and public transit infrastructure, and to make consequential amendments to certain Acts.

He said: Honourable senators, I rise to speak in support of Bill C-66. In doing so, I will also attempt to put the specific actions in this bill in context.

On October 6, 2005, the government announced measures to address the impact of higher energy costs. In making the announcement, Minister of Finance Ralph Goodale, Acting Minister of Natural Resources John McCallum, Minister of Industry David L. Emerson, Minister of Labour and Housing Joe Fontana, and Minister of the Environment Stéphane Dion announced a package of short-term and longer-term measures to help Canadians deal with high energy costs.

The plan is intended to accomplish three objectives and is implemented by Bill C-66: first, provide timely and direct financial assistance to low-income seniors and low-income families with children; second, help families lower their future household heating costs by making their homes more energy efficient and fast-tracking money to municipalities for investments in public transit, moves that will bring lasting environmental benefits over the longer term; and, third, enhance market transparency and accountability.

Minister Goodale stated:

This comprehensive approach provides timely, short-term relief to millions of low-income Canadians while also setting the stage for a more energy-efficient future.

(1530)

I will next outline, in summary form, the provisions in the bill that apply to each objective. The first is the direct payments to low-income families and low-income seniors. Payments under the proposed energy cost benefit will be as follows: \$250 to families entitled to receive the National Child Benefit Supplement in January 2006; \$250 to senior couples, where both spouses are entitled to receive the Guaranteed Income Supplement in

January 2006; and \$125 to single seniors entitled to receive the Guaranteed Income Supplement in January 2006. Approximately 3.1 million payments, totalling \$565 million, will be sent.

The second provision will promote energy efficiency, conservation and innovation. These measures include \$500 million to provide direct financial assistance of \$3500 to \$5,000 to low-income households to defray the costs of items such as draft-proofing, heating system upgrades and window replacement under the new EnerGuide for Low-Income Households program. For multiple-unit buildings and rooming houses, financial assistance will range from \$1,000 to \$1,500 per unit. Cost savings will average about 30 per cent per household. Additional measures to promote energy efficiency include the following: \$170 million to enrich the EnerGuide for Houses Retrofit Incentive program, which is similar to the proposed low-income households program but is not limited to low-income families and will result in almost 750,000 homes being retrofitted by 2010, instead of the 500,000 homes projected in Budget 2005, the last time this program's funding was increased; strengthening financial incentives for best-in-class energy-efficient oil and gas furnaces by an average of \$150 per unit; corresponding financial incentives averaging \$250 per household for homes heated with electricity; and increasing retrofit incentives for public sector institutions such as hospitals, schools, municipalities and provincial governments.

In recognition of the growing importance of public transit in the face of rising energy costs and to give municipalities greater certainty for their planning purposes, Minister Goodale confirmed that \$400 million, previously provided for under Bill C-48, plus \$400 million in the next fiscal year will be freed up for municipalities to boost investment in urban transit infrastructure.

The third provision will include actions to improve energy market transparency and accountability: creating the Office of Petroleum Price Information to monitor energy price fluctuations and to provide clear, current information to Canadians, for which the Minister of Natural Resources will be accountable to Parliament; and giving Canada's Competition Bureau more powers to strengthen the Competition Act to deter anti-competitive practices. These changes will increase the fines for those convicted of price-fixing to \$25 million from \$10 million. As well, the changes will provide the Competition Bureau with the ability to assess the state of competition in particular sectors of the economy. In that way, the Competition Bureau would be able to act more quickly when it suspects anti-competitive behaviour.

Payments under the proposed energy cost benefit and the EnerGuide for Low-Income Households program would be used only after the bill has received Royal Assent. I would now like to discuss each of these three areas in more detail, beginning with an energy cost benefit analysis of the amount of relief. Energy cost benefit payments will be made to low-income families and children and to seniors. The amounts will be as follows: \$250 to families entitled to receive the National Child Benefit Supplement in January 2006; \$125 to seniors entitled to receive the Guaranteed Income Supplement in January 2006; and \$250 to senior couples, where both spouses are entitled to receive the GIS in January 2006.

The total amount of relief will be \$565 million. There will be about 3.1 million payments under the energy cost benefit program, with 1.5 million of those to families receiving the National Child Care Benefit supplements and 1.6 million payments to seniors receiving the Guaranteed Income Supplement. Eligibility in the first category includes families with children that are entitled to receive the National Child Care Benefit Supplement in January 2006 based on 2004 family net income. The income thresholds are as follows: A family with one, two, or three children would receive the benefit up to a net income of \$35,595. The income threshold increases by \$4,316 for the fourth and each additional child.

To be eligible for the energy cost benefit in the second group, seniors must be entitled to receive the Guaranteed Income Supplement in January 2006, based on 2004 family net income. A single senior will receive benefit up to an income of approximately \$19,300, including Old Age Security benefit. A senior couple, where both spouses receive the GIS, will receive the benefit up to approximately \$29,000, including OAS benefits. A couple in which only one spouse receives the GIS will receive benefit up to approximately \$38,700, including OAS benefits.

In addition to being available to low-income individuals aged 65 and older, the energy cost benefit will also be available to those aged 60 to 64, who are entitled to receive payment in January 2006 under the Allowance Program or Allowance for the Survivor Program. These individuals receive the benefit for incomes up to \$25,536 and \$18,744 respectively. At the end of my presentation, I will set out a detailed accounting of all elements of the plan.

In the last category, energy efficiency incentives for homes and buildings, a new program will provide financial assistance to low-income Canadians to help them retrofit their homes. It is an expansion of the existing EnerGuide for Houses Retrofit Incentive that will seek to improve the energy efficiency of about 750,000 homes. A new incentive will encourage the purchase of high efficiency home heating systems. EnerGuide for Low-Income Households is a \$500 million federal initiative over five years that will help about 130,000 low-income Canadians to make energy efficient retrofits.

The Canada Mortgage and Housing Corporation will deliver the program through its Residential Rehabilitation Assistance Program. Energy evaluations will be performed through Natural Resources Canada's EnerGuide for Houses Service, and assistance for energy audits on existing large apartment buildings will be provided through EnerGuide for Existing Buildings.

This initiative will be available to owners of homes, multipleunit buildings and rooming houses built prior to 1980, and might be used for energy retrofits such as draft-proofing, heating system upgrades and window replacement.

For single, row and semi-detached housing, financial assistance will be from \$3500 to \$5,000. For multiple-unit buildings and rooming houses, financial assistance will be from \$1000 to \$1500 per unit. Applicants will need to meet existing RRAP income qualifications, which take into account household size and variations in local housing market costs.

• (1540)

The Government of Canada is investing an additional \$170 million over five years to expend the successful EnerGuide for Houses Retrofit Incentive program. This funding is in addition to the \$225 million extension announced in Budget 2005. The expanded program will help retrofit up to 750,000 houses.

Since its launch in October 2003, the EnerGuide for Houses Retrofit Incentive program has paid out close to 30,000 grants totalling \$20 million. The EnerGuide for Houses Retrofit Incentive program was expanded to include owners of low-rise rental properties and assisted housing in June of 2005.

In the case of high-efficiency home heating proposals, the High Efficiency Home Heating System Cost Relief program, a five-year, \$105 million initiative, will provide incentives to Canadians to install modern, efficient heating systems to offset heating costs over the long term. These incentives will average \$150, ranging from \$100 to \$300. Details of the program will be developed in discussion with utilities and other partners to build on existing initiatives and explore the most cost-effective way to deliver the new initiatives. Programs targeted at existing buildings are being renewed and expanded with a \$210-million investment over five years.

In relation to the actions taken to increase market transparency and accountability, the Government of Canada is prepared to strengthen Bill C-9, the Competition Act, by increasing criminal fines and providing the competition bureau with additional tools. Increasing the fine level under the conspiracy provisions of the Competition Act from a maximum of \$10 million to \$25 million will serve as a deterrent for unlawful cartel behaviour in all industries, including the gasoline industry. The expected costs for engaging in cartels should outweigh the benefits.

Providing the Competition Bureau with a power under the Competition Act to assess the state of competition would enable the bureau to collect all relevant data, including commercially sensitive data that is not in the public domain, in order to conduct in-depth analysis of various industry sectors. This measure will enhance transparency for businesses and consumers.

The Office of Petroleum Price Information, or OPPI, will provide timely information to Canadians on crude oil and petroleum product prices and allow for single-window access to consumer information and relevant government programs in areas such as energy efficiency. The primary mandate of the OPPI will be to collect and disseminate pricing information on crude oil and other petroleum products such as gasoline and furnace oil.

The Government of Canada has allocated \$15 million over five years for the Office of Petroleum Price Information. Information will begin to be made available in the coming weeks by drawing upon the existing Natural Resources Canada resources until the office is fully operational.

The office will rely on a combination of existing information such as federal/provincial data and will provide information to Canadians on how markets work through ongoing analyses of the factors that affect the supply and demand of petroleum products.

The Office of Petroleum Price Information will work in collaboration with the provinces and territories to gather data on existing surveys to ensure consistent data reporting and provide a national perspective. The office will also seek the advice of industry, consumers and other stakeholders to identify data needs and determine the timelines for reporting.

The Office of Petroleum Price Information will have a strong web presence and provide links to other information sources where consumers can find energy-saving tips to make information choices on energy usage.

I now want to deal with the fiscal impact of the government's response to higher energy costs. The total cost of the Government of Canada's response to high energy costs is \$2.438 billion over five years. Of this amount, \$1.333 billion is newly committed funding, while the remainder is from existing sources of funding.

I have a table here that shows the cost of each element in the package, and a further table that illustrates the sources of the funds.

I am almost finished. I know how stimulating this whole speech is. However, I do want it to be complete so that someone will not say, "What is it all going to cost?"

The costing of the package: The cost of direct payments to low-income families and low-income seniors, as you heard, is \$565 million in the current fiscal year. Under the energy efficiency heading "EnerGuide for Low-Income Households": there is indicated \$500 million over five years. This is new funding.

The EnerGuide for Houses Retrofit Incentive: \$170 million. That is for an expansion of an existing program. The High Efficiency Home Heating System Cost Relief program: \$105 million. That is a new program. Accelerated Standards Action Program to obtain energy efficient homes is \$60 million. That is an extension of an existing program. EnerGuide for buildings; that is, municipalities, universities, schools and hospitals: \$210 million. That is an expansion on an existing program.

Public transit infrastructure: \$800 million over two years. Those two years are the years 2005-06, which are fiscal years, and 2006-07. The Enhanced Market Transparency, or the Office of Petroleum Price Information, has a cost of \$15 million. That is a new expenditure. The Administration of the Competition Act changes is an additional \$13 million. These expenditures total \$2.438 billion.

The source of funds: Bill C-48, the low-income retrofit. \$100 million comes from that source. Also from that source comes public transit, which is \$800 million over two years. Climate Change Review Reallocation, Accelerated Standards Action Program for energy efficient homes: \$60 million. The municipal university schools and hospital retrofit is \$145 million. The new funding is \$1.333 billion, for a total of \$2.438 billion.

In conclusion, I would like to say a couple of words about how important this piece of legislation is and how important it is that it be timely. The money should move to the people that need it as

soon as is reasonably possible. That is why the urgency was seen on both sides of this chamber and was evident in the other place.

This benefit had to compete with a couple of criteria. I believe the government wanted to ensure covering as many low-income Canadians and Canadians in need of help, but they had to do it in a timely fashion. Therefore, the choice was made of those families receiving the child benefit allowance, because they are identifiable, and seniors receiving the guaranteed income supplement.

There are other people who could benefit from these payments. The problem with getting these payments into the hands of the people is that putting together a system that identifies everybody but does not include people that should not be included would take a long time. The decision was made that we can do this for these people in need, and since we can do it now, let us do it, and we can look at other things at some point in the future.

• (1550)

One further comment: As you know, there was a program a number of years ago comparable to this. One device used to decide who was entitled to receive these payments were people who received rebates on GST. One result was that some people who received these benefits were not entitled to them. People in penitentiaries received the cheques, and people who were out of the country by this time received the cheques. There were all kinds of problems.

This is a situation in which the two universes that would be reached by this program are identifiable and, therefore, it is possible to reach those people. Thank you for your patience in listening to all of this. I ask you to help us expedite this and get it into the hands of the people before the real cold weather strikes.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I am pleased to participate in the debate on this bill at second reading because it speaks to proposals that we have brought forward not too long ago, a matter of some weeks.

As Senator Bryden has concluded, with the price of fuel having risen so dramatically since the past summer, the fuel that is processed from the oil-base went up in cost dramatically. We live in an environment during the winter months that requires heat, and many Canadians' source of heat is from oil-fired devices such as furnaces, et cetera. A lot of heating is done through electricity, but that, in turn, is often generated by oil-based fuel.

This bill is obviously important within the context of the increase of energy costs that has concerned all of us. We have a motion before the chamber to also deal with the issue of automobile fuel, particularly for those people who have to work and are earning near minimum wage, who do not tend to live in the urban center and cannot use the transit system but drive a little further. Work becomes marginal when they pay a dollar plus per litre of gasoline.

This bill focuses on a specific program that Senator Bryden has accurately outlined as contained in the bill before us. Senator Bryden, again by speaking of the context in which the bill is before us, and I have alluded to the fuel cost context as well.

Another context perhaps speaks to why the bill is before us this afternoon with a kind of urgency that goes beyond the nearness of winter. That context is the talk on this Hill about election. Suddenly, when you consider that context, the government, with no money for tax relief a few months ago, has found the means all of a sudden to announce some modest tax relief and to at least pretend that it is concerned about the high impact of high energy costs on low- and modest-income Canadians. What was not urgent a month or two months ago is suddenly urgent. We have to recognize also that part of the context in which this bill finds itself.

The urgency of the bill is the energy cost benefit of \$250 to recipients of the National Child Benefit Supplement, as has been explained, and \$125 to recipients of the Guaranteed Income Supplement.

We were also asked through this bill to vote the government \$838 million on initiatives to reduce housing energy consumption and to allow the government to spend \$800 million of the public transit money from the NDP budget bill more quickly.

I will say a few words on those other measures in a moment, but first it is important to bury misleading information that has come from the government ranks over the past few weeks. To listen to ministers of the Crown, all manner of new initiatives will come to a grinding halt if the government falls within the next few days.

Honourable senators may recall that there was a heating rebate program five years ago, announced on the eve of a pending election. That sounds somewhat familiar. Parliament was dissolved before the government had even introduced a bill to authorize those rebates. Somehow, miracle of miracles, people got their cheques that winter. How is that possible? It was through special warrant signed by the Governor General on recommendation of the cabinet. Who was the Minister of Finance when cabinet recommended the warrants for this program? It was none other than Paul Martin.

Honourable senators, from the perspective of Parliament, it would be preferable that such payments be authorized through legislation, but the fact remains that the option of warrants remains open to the government for the heating rebates should it feel, as it did five years ago, that this meets the test of being urgently needed for the public good.

The heating rebates, however, are not the only area where we have seen inaccurate spin about what happens if the government falls. On Wednesday, the Prime Minister appeared on Canada AM and said that the raises to the military were in jeopardy if the estimates did not pass. That is in direct contradiction to the testimony of Treasury Board officials who appeared before our Standing Senate Committee on National Finance where it was confirmed that those wages for the military have, in fact, been in place since the beginning of the year. They are not in jeopardy and there are no new raises authorized by the supplementary estimates. The same is true of public service wage increases. All we have to do is read the transcripts of that particular meeting of the Standing Senate Committee on National Finance to understand the nature of that spin.

The estimates replenish the money that has already been spent, allowing the government to pay for other things. The reality is that because of the House of Commons rules governing when estimates are presented and passed, an election held at almost any point other than the summer or early fall will interfere with the process of parliament granting supply. For example, if the Prime Minister did not call an election until 30 days after Justice Gomery's final report, Parliament would be dissolved during the time that we would normally consider the March set of supplementary estimates. One way or another, Parliament will be unable to vote for at least one set of supplementary estimates this year - if not now, then in March. That is why the government has the ability to use special warrants during an election. The test is that something is urgently needed for the public good. If an item is important enough for the government to spin that it might be lost if the estimates fail, then it is likely important enough to meet the twin tests for warrants of urgency and the public good.

• (1600)

Beyond the items normally voted in the estimates, there are also statutory items outlined in the blue books for information purposes only. This includes the cost in the coming increase in the Guaranteed Income Supplement, which Parliament passed early last summer as part of Bill C-43, the Budget Implementation Act, as well as \$600 million in gas tax infrastructure money. These statutory items never have to be voted again. They are only in the Supplementary Estimates book for information purposes, are not part of the draft schedule to the supply bill, and yet we have seen the Government House Leader in the other place spin that these are somehow lost if the Supplementary Estimates do not pass. That is not factual; that is not how our system works.

Honourable senators, the political context of this bill is well known. Over the course of the summer and early fall energy prices rose dramatically, creating pressure on the government to respond. That response included the energy tax benefit for low-income seniors and low-income families with children, subsidies to help Canadians make their homes more energy efficient, and speeding up planned spending for public transit infrastructure. These measures constitute the subject matter of Bill C-66 that is before us.

In speaking to the inquiry on energy costs, I had the opportunity to outline some of the shortcomings of the heating rebate program. They mainly concerned the limited scope of this measure and its inequities.

Less than one third of Canadian households, or roughly one Canadian in 10, will receive anything from this rebate.

It arbitrarily sets a line of \$36,000 as the level above which families with children are deemed not to be in need.

Less than half of all senior citizens will qualify.

There is a bizarre inequity where if only one spouse in a couple receives the Guaranteed Income Supplement, then the income ceiling is just under \$39,000, but if both partners receive the GIS, then the ceiling is \$29,000.

A single senior has the same heating expense as a couple, yet receives only half the benefit of a couple. I do not know whether that is a paradox or whether it is something the committee might wish to study.

Single persons under the age of 65 and childless couples will receive nothing, regardless of income or need.

Parents caring for disabled adult children will not qualify.

Families whose 2005 income is significantly lower than in 2004 do not qualify, while those whose income has risen dramatically will still benefit.

There are no guarantees that the provinces will not claw back the benefits. A senior needs to be in receipt of the Guaranteed Income Supplement to receive the heating benefit. However, as Senator Downe has pointed out on several occasions, a substantial number of eligible seniors have not applied or have not renewed their application.

Honourable senators, we would be cynical if we were to wonder if this one-time benefit will be delivered a few days prior to an election call with an insert from the Prime Minister boasting about the wonderful job his government is doing to look out for Canadians. The heating rebate program of five years ago had a number of flaws, one of which is that it sent 16,000 cheques to prisoners, people no longer in the country and to people who were no longer alive. Let us hope that the government is being truthful when it says that this will not happen again.

There are two other broad measures in this bill beyond the energy rebates. First, there is the \$800 million for public transit infrastructure that we are told will replace money already voted as part of the NDP budget bill. Thus, it is not new money but, rather, removes the requirement that there be a surplus of at least \$2 billion. The bill allows for \$400 million to be spent this year and \$400 million next year. However, unlike the funds voted under Bill C-48, this bill adds the requirement that public transit spending be spent on public transit infrastructure, potentially permitting it from being used for new rolling stock to alleviate rush hour crowding. Ottawa, rather than local municipalities, will decide how public transit dollars are to be spent. While we are told that this will allow the government to advance public transit funds more quickly, the authority to spend money in Bill C-48 is not touched by Bill C-66.

As both bills use the word "may" to grant spending authority, the government could pick and choose when to spend the money or could choose not to spend it at all. What this may do is allow the government to advance spending announcements that it did not expect to make until next year. Would we be cynical to wonder if this will also advance the ability of the Liberal Party to have MPs make local announcements during an election campaign?

While we fully agree with the need to fund more infrastructure, there is also the matter of encouraging Canadians to use public transit. That means more than just providing more of it and more than just building light rail lines to replace buses. While public transit is usually a less costly and less stressful way to travel for

many Canadians, it also has drawbacks, typically measured in time, convenience and personal comfort levels. For those reasons, the existing service is not always used to its fullest potential.

Honourable senators, we must, therefore, do more to encourage Canadians to use that service. One way to do this would be through a tax credit for monthly or annual transit passes as suggested by the Leader of the Opposition in the other place, Mr. Harper. This would serve as a potential incentive to commute by bus, rail or metro, a made-in-Canada solution to the challenges of smog and climate change. It would also reward those who use transit and would relieve urban congestion by getting more Canadians out of their cars and into buses.

We would boost transit revenues by boosting the number of riders, helping municipalities to meet the rise in maintenance costs, diversify to alternative fuel vehicles and expand services. This would be a progressive step toward reducing greenhouse gas emissions, certainly far more likely to achieve results than the Kyoto solution of having our manufacturers buy hot air credits from Russia.

Finally, honourable senators, the bill authorizes, over a five-year period, \$425 million for the Canada Mortgage and Housing Corporation to spend on measures to reduce energy consumption in housing projects. For Natural Resources Canada, there is \$75 million for purposes of the Energy Efficiency Act, and another \$338 million for the Houses Retrofit Incentive Program, including administration costs. These energy efficiency measures mainly expand existing programs.

However, honourable senators, this bill that we are debating at second reading this afternoon departs from the usual manner in which Parliament votes spending in two ways. First, through the estimates, Parliament usually votes funds for programs such as these one year at a time, with limited provision for some funds to carry over to the next year. The money voted in this bill can be spent at any point during a five-year block of time, allowing the government to either compress the spending into the pre-election period or juggle funds between years to manage the annual surplus.

The second divergence is that when Parliament votes funds to Natural Resources Canada, there is usually one vote for administration and a separate vote for grants and contributions. Each year, before Parliament votes funds to Natural Resources Canada to run programs such as this, we are usually given basic information as to how the money will be spent, including the expected costs of public service salaries and payments for professional services such as consultants.

In this bill, we are asked to vote a five-year block of money for the EnerGuide for Houses Retrofit Incentive Program, including administration costs, without any indication as to what those administration costs will total or include and when the money will be spent. Given what has transpired under the mandate of this government, Canadians are less than impressed when the government proposes that it will be more accountable.

• (1610)

However, honourable senators, in conclusion, I support the bill and hope that it will go to the Energy Committee for detailed study. I do so in part because I am hopeful that we will soon have a government that is really accountable.

Senator Bryden: If no other senator wishes to speak, I would be pleased to close debate on second reading and ask the Speaker to call for the question.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Bryden, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

CRIMINAL CODE CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—SECOND READING

Hon. Bill Rompkey (Deputy Leader of the Government) moved second reading of Bill C-53, to amend the Criminal Code (proceeds of crime) and the Controlled Drugs and Substances Act and to make consequential amendments to another Act.

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, I am pleased to speak today at second reading of Bill C-53, first to support it on behalf of my party and second to give you an overview of this bill.

First, this bill provides for a reverse onus of proof in proceeds of crime applications involving offenders who have been convicted of a criminal organization offence or certain offences under the Controlled Drugs and Substances Act.

Honourable senators, this bill is one of several bills awaiting approval by Parliament in order to include organized crime and, above all, the laundering of money generated by the criminal activities of these highly structured and financially solid organizations.

These proceeds of crime provisions, which are found at part XII.2 of the Criminal Code and allow for the seizure, restriction and forfeiture of proceeds of crime, have existed since 1989. Their scope was broadened in 2002, under the Act to Amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other acts, to apply to most indictable offences under federal law. At present — meaning before Bill C-53 comes into force, if passed by Parliament — the Criminal Code allows for the forfeiture of the proceeds of crime, upon application by the Crown after a conviction for an indictable offence under federal law, other than a small number of offences exempted by regulation.

Currently, the Crown must show that the property is the proceeds of crime and that the property is connected to the crime for which the person was convicted. If no connection between the particular offence and the property is established, the court can nonetheless order forfeiture provided that it is satisfied beyond a reasonable doubt that the property is proceeds of crime.

As you can see, honourable senators, those who must defend the property have an obstacle that is almost impossible to overcome. I will have you know that my political party has been defending this reverse onus of proof for many years and that is why I am extremely pleased to speak today on behalf of the government in support of Bill C-53.

In essence, Bill C-53 would apply to any offence that can be prosecuted by indictment, thus the more serious offences. Clause 6 lists those offences, namely: any criminal organization offence punishable by five or more years of imprisonment; and any offence under section 5, 6 or 7 of the Controlled Drugs and Substances Act or any activities related to such an offence, prosecuted by indictment.

That gives you an idea of the framework to which this rather extraordinary reverse onus of proof measure applies. That is why it applies to the more serious offences.

Clause 6 states the circumstances that could lead to forfeiture and to the reverse onus of proof by which the offender must prove that his property is not proceeds of crime.

A court imposing sentence on an offender convicted—and I must emphasize this small, yet highly important, nuance that it is only when the offender is convicted that the reverse onus of proof can apply—of a designated offence, those I have just mentioned, shall, on application of the Attorney General, order that any property of the offender be forfeited if the court is satisfied, on a balance of probabilities, that within 10 years before the proceedings were commenced in respect of the offence for which the offender is being sentenced, the offender engaged in a pattern of criminal activity for the purpose of directly or indirectly receiving a material benefit, including a financial benefit; or the income of the offender from sources unrelated to designated offences cannot reasonably account for the value of all the property of the offender.

If the offender shows that his property is not proceeds of crime, the court cannot order the forfeiture.

As you can see, honourable senators, once the offender has been convicted, the onus of proof is transferred, after certain criteria are met, from the Crown to the convicted offender, who now has to prove that the property is not the proceeds of criminal activity.

Allow me to quote a few statistics to convince the honourable senators of how much of a problem money laundering is in Canada. The RCMP reports that approximately \$17 billion, Canadian, is laundered in Canada each year. This is not a small-time operation. Bill C-53 is designed to curb — since eliminating it would be impossible — this highly questionable criminal activity.

As I indicated previously, Bill C-53 flows logically from the amendments to the Criminal Code that we passed back in 2001, precisely to improve the conditions surrounding the whole issue of restitution or forfeiture of the proceeds of crime. Needless to say, police associations across the country unanimously support this bill. In fact, they would really have liked us to pass such an amendment back in 2001. Unfortunately, that proved to be impossible. The time has come to act. So, let us act. And the police associations agree with us on this issue.

• (1620)

In conclusion, I wish to remind you that, contrary to some Supreme Court rulings that challenged the reverse onus of proof before a conviction, those of you who might be concerned about respecting the Charter in the context of a reverse onus of proof will not find any basis in what the government is proposing, since this reverse onus of proof applies only after an accused has been convicted.

Considering the very large number of rulings that they have made, it is very likely that the courts, which have already found it highly important for Canada to do everything possible to deal with organized crime and the dangerous consequences of criminal activities, will accept this new reverse onus of proof once an accused is convicted.

Honourable senators, I urge you to pass this bill quickly.

[English]

Hon. Larry W. Campbell: Honourable senators, I am pleased to rise today to speak to Bill C-53. This bill seeks to amend the Criminal Code to put in place a reverse onus with respect to certain proceeds of crime applications. This legislation also makes a number of corrective amendments to the existing Criminal Code provisions on proceeds of crime.

Honourable senators, Canada has laws in place that help to counter the problem of organized crime. The proceeds of crime measures now in the Criminal Code play an important part in addressing this problem, although they are not as effective in depriving organized crime of its ill-gotten gains as they ought to be or could be.

The proceeds of criminal activity allow organized criminals to commit further crime, recruit additional members and facilitate generally the criminal operation of their groups. I think all honourable senators would agree that organized crime demands specific, focused and sustained responses.

Honourable senators, the proposed reforms in Bill C-53 build on the existing forfeiture provisions in the Criminal Code. The current proceeds of crime scheme allows for the forfeiture of proceeds upon application by the Crown after a conviction for an indictable offence under federal law, other than a small number of offences exempted by regulation.

In order to obtain forfeiture, the Crown must show on a balance of probabilities that the property is the proceeds of crime and that the property is connected to the crime for which the person was convicted. The Crown can also obtain forfeiture even

if no connection between the particular offence and the property is established, provided the court is nevertheless satisfied beyond a reasonable doubt that the property is proceeds of crime.

The existing proceeds of crime provisions that remain under Bill C-53 will continue to be effective in obtaining forfeiture of proceeds of crime in general circumstances. For example, if a person is convicted of theft and property can be identified as the product of that theft, then the existing proceeds provisions can operate to remove any illicit gain. Even where it may become apparent that identified property is not the product of the particular theft, the existing proceeds provisions can operate, provided proof is provided beyond a reasonable doubt that the property is proceeds of crime.

While these current provisions can be effective, their effectiveness can be limited in comparison with the extensive illicit gains accumulated by organized crime. The existing provisions are most effective with respect to discrete types of criminality, where property is clearly associated with a single offence or small number of offences. That is often not the situation with respect to organized crime.

Further, it must be recognized that obtaining forfeiture of the proceeds of crime can be an especially difficult task for police and Crown prosecutors in situations of sophisticated criminality and active concealment of the criminally derived nature of assets.

Honourable senators, although criminal organizations are believed to be involved in extensive criminality leading to substantial illicit gains, the particular crimes for which convictions are finally obtained against these criminals may not be one with the associated proceeds, or even if they are, the proceeds will represent only a small part of the total proceeds of crime earned and controlled by these organizations. It is for this reason that the reverse onus forfeiture power is being advanced. Bill C-53 contains a fundamental improvement on the current scheme to address this proceeds of crime challenge in relation to organized crime.

Bill C-53 provides an additional forfeiture power — in addition to the existing powers that will remain — that allows for the application of a reverse onus of proof after conviction for a criminal organization offence that is punishable by five or more years of imprisonment or certain drug offences under the Controlled Drugs and Substances Act when prosecuted on indictment.

The definition of a criminal organization offence in the Criminal Code includes the three special criminal organization offences that have been created in the code, namely: participation in the activities of a criminal organization; committing a crime for the benefit of, at the direction of or in association with a criminal organization; and instructing the commission of an offence for a criminal organization. The definition of a criminal organization offence also includes other indictable offences punishable by five or more years when committed for the benefit of, at the direction of or in association with a criminal organization.

These criminal organization offences are crimes that logically can support a presumption that substantial property of the offender is the proceeds of crime. A core aspect of the definition of criminal organization is that it is a group formed for the purpose of committing offences to obtain material benefit. There is, therefore, a logical basis for the underlying presumption inherent in the reversal of the onus.

Honourable senators, as I noted earlier, the one other category of offences to which the reverse onus provisions would apply are the serious drug offences of trafficking, importing and exporting, and the production of illegal drugs, where these offences are prosecuted on indictment. There are probably no offences more closely associated with organized crime than these listed serious drug offences, so it was thought to be in keeping with the purpose of the legislation to include them. Our laws have traditionally taken special measures against such drug offences as they represent matters of recognized societal harm in their own right.

While additional offences are not directly included in the scope of this scheme, it should be recalled that many other offences can be prosecuted as criminal organization offences, provided that it is demonstrated that the offences were committed for the benefit of, at the direction of or in association with a criminal organization, so the scheme can apply more broadly in this manner, provided the link with organized crime is made.

Honourable senators, I have described for you the offences to which this proposed new power would apply and the reasons for this scope. I would like now to discuss how, in particular, the reverse onus would be triggered.

As a prerequisite to the reverse onus scheme, the court would have to be satisfied on a balance of probabilities that either the offender has engaged in a pattern of criminal activity for the purpose of providing the offender with material benefit or that the income of the offender, unrelated to the crime, cannot reasonably account for the value of all the property of the offender, a net worth assessment. This fundamental condition on reverse onus forfeiture, in addition to the scope of offences, further helps to support the presumption that the offender's property is the proceeds of crime and thus supports the application of reverse onus forfeiture. Upon these conditions being satisfied, any property of the offender identified by the Attorney General will be forfeited unless the offender demonstrates on a balance of probabilities that the property is not proceeds of crime.

There is a power of the court, however, to set a limit on the total amount of property forfeited as may have been required by the interests of justice. The court would have to give reasons for this limit. This is an important power to provide the court. The legislation has been carefully designed to provide a balance between, on the one hand, a proposed aggressive new forfeiture provision and, on the other, conditions and limitations to guard against any unwanted effects of this broad new power.

The judicial discretion aspect of the legislation is an important part of this careful balance.

• (1630)

Furthermore, some may enquire about the protections offered with respect to legitimate third party interests in property that is subject to forfeiture under Bill C-53. In this regard, it is important to emphasize that specific protections apply with respect to the proposed reverse onus power.

First, currently under the Criminal Code, prior to an order of forfeiture being made, a court is directed to require that notice be given to, and may hear any person who appears to have an interest in the property subject to forfeiture, and the court may order the property or any portion of it returned to the person if the court is satisfied that that person is the lawful owner or is lawfully entitled to possession and is innocent of any complicity or collusion in a designated offence. Under Bill C-53, this power has been specifically extended to apply to the proposed reverse onus forfeiture as well.

In addition, under the Criminal Code, any person who claims an interest in property forfeited other than a person who is charged with or convicted of a designated offence in relation to the property, or who has acquired title or a right to possession of that property under circumstances giving rise to a reasonable inference that the transfer was made to avoid forfeiture, may apply for an order declaring that their interest is not affected by the forfeiture.

Under Bill C-53, this power also has been specifically extended to apply to the reverse onus forfeiture power. Furthermore, as previously noted, since Bill C-53 may significantly increase the scope of forfeiture available in some circumstances, the bill also provides a special power to relieve against forfeiture in respect of reverse onus applications. A court may, if it considers it in the interests of justice, decline to make an order of forfeiture against any property that would otherwise be subject to forfeiture under the reverse onus scheme. This additional power is also relevant with respect to potential third party interests.

Finally, Bill C-53 provides that a court will have to be satisfied from the outset that a particular piece of property is, in fact, the property of the offender in order for it to be subject to forfeiture. Therefore, these existing and proposed elements of the proceeds of crimes scheme do provide a range of protection for third party interests and properties.

Honourable senators, Bill C-53 also contains a number of corrective amendments to the existing proceeds of crime scheme under the Criminal Code. These amendments include a correction in a discrepancy between the French and English wording of one provision; a clarification of the authority of the Attorney General of Canada in relation to the proceeds of crime; a clarification of the designation of designated offence and an extension of the search warrant provisions under the Controlled Drugs and Substances Act to ensure that warrants under that act can also apply in the case of investigations of money laundering and possession of proceeds of crime offences where these are related to illegal drugs.

Honourable senators, Bill C-53 provides an important new forfeiture power to the Criminal Code. This new power would provide, in appropriate circumstances and subject to certain conditions, for the forfeiture of property of an offender unless the

offender can prove, on a balance of probabilities, that the property identified by the Attorney General is not the proceeds of crime. The safeguards I have outlined have been also put in place to ensure the protection of legitimate third party interests in property.

This bill has at its core a worthwhile objective: to combat organized crime by more effectively targeting their primary motivation — illicit financial gain. Honourable senators, Bill C-53 achieves this objective in a targeted yet balanced way. I urge all honourable senators to support this important bill.

Hon. A. Raynell Andreychuk: Honourable senators, I would like to ask a question of the honourable senator. The Auditor General indicated today that the RCMP has some shortcomings, one being that they do not have the resources at the moment — nor perhaps the training — to fight organized crime. We are about to put yet another load on them with a dangerous element of reverse onus which, if applied inappropriately, could damage economic interests and honest citizens. How do you propose to layer this act on an already overburdened RCMP and police forces across Canada?

The Hon. the Speaker: Will you accept the question, Senator Campbell?

Senator Campbell: Yes. First, given my prior background, it is doubtful that any police force will say they are over-staffed. They will never come forward and say, "We have too many people."

Second, I believe that the RCMP and almost every major police force at the present time do have the staff to enter into this kind of investigation and take it successfully to its conclusion. Should they not, then clearly the onus is upon the police forces to become better able to carry on these investigations.

Third, I do not think that this bill will hinder unnecessarily the economic viability of business or the economic trends that we see in our country, which are clearly going up. Rather, this will allow those businesses that are legitimate to stay there, and those that are not and are involved in criminal activity will recognize that they could find themselves out of business.

The simple answer is that if you do get involved with organized crime and you want to put money into it and you think you are a legitimate business, or are pretending to be, this bill will send a message that says that it does not give you cover. The police will come; they will seize your property, and they will put you out of business.

Senator Andreychuk: By reversing the onus, we are, in fact, indicating that we would have to fight for our innocence in certain situations, because the triggering is on a balance of probabilities, and then you would have to prove that you dealt with a legitimate interest, or one which you thought was legitimate. The dilemma is that organized crime now is very pervasive in Canada and elsewhere. It is not easy to identify what businesses are part of organized crime. We always use the pizza parlour example, but there are many others where, under cover of what appears to be a

legitimate business, organized crime is operating underneath. We will now put on a reverse onus so that someone who legitimately feels that they are legitimately dealing with an organization will find themselves having to answer that they were not part of an organized crime scheme.

I would like to know if you are comfortable with that. Did I hear correctly that you said that you believe we are well staffed in the police forces and that they are not understaffed and stretched by virtue of all of these items?

Senator Campbell: I would never say that. I did not mean to imply that they are overstaffed. I am saying that if I ever heard the police say, "You know what? We have enough staff and do not need any more," I would have to go out and see if there was a blue moon in the sky. There is never enough staff; there is no question about that. However, at the same time, we must realize that it is a matter of training and priorities, and it is also a matter of making decisions with respect to resources and where they must go.

I do not think I can comment on the pizza parlour, but there are enough safeguards in this bill so that if you are a legitimate business, at the end of day — or even at the beginning of the day — I do not think you will find yourself in court, because the judge has the power to make that decision. While we have the balance of probabilities, certainly, within the justice system, that should give everyone confidence that innocent companies and innocent people will not be dragged into such a prosecution.

The Hon. the Speaker: I see no senator rising to adjourn or to speak further to this matter. Are honourable senators ready for the question? I will put the question.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

• (1640)

FIRST NATIONS OIL AND GAS AND MONEYS MANAGEMENT BILL

SECOND READING

Hon. Rod A. A. Zimmer moved second reading of Bill C-54, to provide First Nations with the option of managing and regulating oil and gas exploration and exploitation and of receiving moneys otherwise held for them by Canada.

He said: Honourable senators, I am honoured to initiate the process of second reading of Bill C-54, to provide First Nations with the option of managing and regulating oil and gas exploration and exploitation and of receiving monies otherwise held for them by Canada.

The goal of this bill is twofold. First, it will provide a comprehensive framework for First Nations to obtain the complete management and control over oil and gas resources on their reserve lands.

Second, it will give First Nations the option to obtain the complete management and control over monies currently held by Canada on their behalf, otherwise known as Indian monies.

Bill C-54 will give First Nations the option to move out from the restrictive nature of the Indian Act and the Indian Oil and Gas Act. It is about paving the way for those First Nations that may find this bill advantageous to taking steps toward greater self-government, and fostering a strengthened government-togovernment relationship between First Nations and Canada.

As such, Bill C-54 is yet a further demonstration of this government's strong commitment to a transformative agenda, designed to close the socio-economic gap between First Nations people and other Canadians. Part of that commitment is the development of a modern legislative and regulatory environment to match the complexity of economic development on First Nations reserves.

Honourable senators, before I begin highlighting specific elements of the bill, I wish to congratulate the three sponsoring First Nations that have piloted this initiative: the White Bear First Nation, the Blood Tribe and the Siksika Nation. The legislation was principally designed by and for these partnering First Nations. I wish to congratulate them on their leadership and dedication. Their ten-year journey with the department has culminated in the bill before you today.

Their project began a decade ago with the First Nations oil and gas management initiative, with a pilot project. Its goal was to provide the three pilot First Nations with the operational capacity to assume management of oil and gas resources on reserve lands. It began with a proposal from the Indian Resource Council for a progressive, three-phased, capacity-building approach to transfer the management and control of oil and gas resources from Indian Oil and Gas Canada directly to First Nations.

In mid-2001, work was well underway to begin transferring authority from the federal government to the pilot project First Nations for the management and control over oil and gas resources on their reserve lands. During this time, the pilot project First Nations also recognized a need to include an authority to collect, manage and use future oil and gas revenues, and to allow expedient access to capital for development projects in the petroleum sector. This work led to the addition of the monies provisions to complement the oil and gas provisions in Bill C-54, a logical legislative enhancement.

The Government of Canada has managed Indian monies pursuant to the Indian Act since the late 19th century. Until recently, the Minister of Indian Affairs and Northern Development was responsible for managing comparatively modest sums of Indian monies.

Over the years, First Nations have continuously looked for alternatives to gain control and management of their monies. One example of this can be seen in the fact that over 400 First Nations have opted for control over their revenue monies under section 69 of the Indian Act. However, that process has its constraints.

Another alternative for the control of monies under the Indian Act was explored in 1998, as part of the Joint Initiative for Policy Development. The Assembly of First Nations invited Treaty 7 First Nations to look at a legislative option to enable First Nations control over Indian monies. However, this effort was inconclusive.

Finally, as part of the pilot project, the pilot First Nations entered into discussions with the Treaty 7 First Nations concerning the management and use of future oil and gas revenues. Following these discussions, Treaty 7 First Nations gave the pilot First Nations a mandate to develop a legislative proposal that would lead to First Nations assuming authority over Indian monies. Treaty 7 First Nations and the sponsoring First Nations agreed that the oil and gas legislative proposal would include optional monies provisions that would be available to any First Nations that would seek to gain the authority for the management and control of their monies.

The three pilot project First Nations have become the sponsors of the third and final phase of the pilot project, which has led to Bill C-54. This legislative tool provides for a comprehensive oil and gas and monies framework so that the three sponsoring First Nations will be equipped to take on the governance responsibility in these areas.

Under the current legislative restrictions and burdensome requirements, First Nations are unable to assume full authority for decision-making in relation to oil and gas activities and control of Indian monies. This bill seeks to remove finally this impediment. Once that is done, the expected benefits will not only affect First Nations communities, but will also have a substantial impact on regional, provincial and even national economies.

On the monies management provisions of Bill C-54, the main benefit is direct community planning of monies. First Nations opting into the monies provision will be able to respond to specific needs or economic opportunities without federal involvement. Also, accountability for monies managed under the bill is directed toward the First Nations membership rather than a federal body. These measures support a move toward self-government and financial management that is transparent to the community.

On the oil and gas provisions of Bill C-54, one of the main benefits is that First Nations themselves will take a critical step toward more self-reliant communities. That is, they will now be able to take control over the management of oil and gas resources and related revenues generated on First Nations reserve lands. Last year alone, those revenues for all First Nations totalled approximately \$230 million. In addition, industry directly invested over \$70 million in drilling on reserve lands.

With authority to participate directly in the oil and gas economy, these First Nations will benefit from stimulation of on-reserve, local and regional employment, as well as the potential for spinoff businesses resulting from increased

economic activity. First Nations will also benefit from the ability to access financial resources directly to take advantage of commercial opportunities in oil and gas as well as other sectors.

Honourable senators, with this bill, First Nations will be able to manage and initiate agreements and seize economic opportunities in all facets of the oil and gas industry, from initial exploration to extraction and transportation.

Under this legislation, an oil and gas operator will deal directly and only with the First Nation for negotiation of the agreement, issuance of the contract, management of the contract, payment of monies, and reclamation of the site throughout the life of the agreement.

• (1650)

Honourable senators, between 2000 and 2003, Canada, Alberta and Saskatchewan collected on average approximately \$300 million in taxes from oil and gas activities on reserve lands. The cost incurred to both Canada and the two provinces in conducting the administrative and regulatory functions was less than 1 per cent of \$300 million.

On this basis alone, the federal government, the provincial governments and the First Nation governments stand to benefit from oil and gas operations on reserves. This legislation substantially increases the law-making powers of participating First Nations. They will now be able to make laws regarding environmental assessments, provided they conform to the regulations under the legislation.

Importantly, First Nations will be able to incorporate existing provincial laws respecting environmental protection and resource conservation. Since the provinces are administrators and regulators of oil and gas activities off reserve, this approach ensures that the laws of the First Nations regarding environmental protection will be at least equal to the level of protection provided by provincial laws. In the case of resource conservation, this legislation stipulates that First Nation laws will not be in conflict or be inconsistent with the laws of the province.

This bill also provides the option for the First Nation to enter into an agreement with the province for the administration and enforcement of its oil and gas laws. This will ensure harmony between First Nations oil and gas laws and the enforcement on reserve and the provincial and gas laws enforcement off reserve. This translates into increased investor certainty, while providing clarity in the administration of oil and gas activities across the province on or off reserve.

The assistant deputy minister for land and resource issues in the Alberta Department of Aboriginal Affairs and Northern Development, Neil Reddekopp, supports this regulatory approach. In testifying before the Standing Committee on Aboriginal Affairs and Northern Development in the other place, he said that First Nations:

...may enter into agreements with the provinces to provide for regulation of these matters by provincial bodies and officials in a similar manner to what is applied to same issues off reserve. Based on these discussions over the past several years, it appears that all three partnering First Nations plan to avail themselves of this opportunity... This decision is worthy of considerable praise for its wisdom.

He also testified that this legislation has the support of his minister.

Honourable senators, the bill has some important implications regarding past and future liabilities. First, the bill clearly states that at the point of the transfer of authority from the federal government to the First Nation, when the First Nation begins fully exercising its powers under the legislation, Canada is no longer responsible. However, and equally important, Canada will still be responsible for activities it undertook prior to the First Nation taking over control and management of its oil and gas resources and monies.

It is important to note that under the legislation, when Canada transfers its authorities over these areas to the First Nation, the nature of the relationship changes. Just as the federal government has had a responsibility to the First Nation in these areas, the First Nation takes on that same responsibility to its membership at the point of transfer.

The bill also spells out a transparent and accountable process through which a First Nation can opt into the oil and gas provisions, the money provisions or both. In order to do so, the First Nation must have a community vote, where a majority of the eligible voters must cast a ballot, and a majority of all ballots cast must be in favour. This double-majority approach ensures that the voice of the community as a whole is paramount in making the decision to assume these new governance powers.

Indian Oil and Gas Canada has identified approximately 12 to 15 First Nations that may choose to opt into this legislation and take control of their oil and gas resources and related revenues. Should they choose to do so, these First Nations would have the benefit of the experience and skills gained over the 10-year pilot project by the three sponsoring First Nations. Indian Oil and Gas Canada is developing a three-year training program to prepare additional First Nations for the responsibilities of managing their own oil and gas resources and related revenues.

In terms of money management provisions, they are open to every First Nation that chooses to opt in. Once they do so, there is a process for First Nations to meet requirements under the legislation, such as the development of a financial code prior to community ratification. Once the monies management powers have been transferred by the Government of Canada to the First Nation, the First Nation will be accountable to the community for the transparent management of money.

Before a First Nation can gain control over its oil and gas resources, it must develop an oil and gas code. I was pleased to note that the Conservative Party critic in the other place, Mr. Jim Prentice, Member of Parliament for Calgary Centre-North, and caucus colleague and our friend Senator St. Germain, pointed out that the bill before us requires these codes to be rigorous so that

they will protect the process of amending the code itself, and include accountability mechanisms and mechanisms to disclose any conflicts of interest.

I believe honourable senators will find that there is considerable support for the process set out in Bill C-54 regarding the establishment of the financial code in order to access what are now Indian monies in the Consolidated Revenue Fund. This bill represents another option for First Nations, whether they have oil and gas resources or not, to be able to gain access to their own monies.

As honourable senators may know, I travelled with the Standing Senate Committee on Aboriginal Peoples to British Columbia and Alberta from October 24 to 28 to listen to the views of First Nations on the involvement of Aboriginal communities and businesses in economic development activities in Canada. The presentations were innovative, visionary and displayed leadership and dedication. The Senate committee is interested in identifying the factors that make some First Nations successful, while others struggle despite access to resources. The Senate committee plans to travel to Ontario, Quebec and Atlantic Canada to hear the views of First Nations across the country this winter and in the spring.

Some of the factors that make First Nations successful include the separation of politics and business. Successful First Nations have generally established economic development authorities or enterprises that take decisions based on commercial and economic reasons. The chief and council are still the shareholders of these institutions, and a proportion of the profits are turned over to the band council for social programs on most of the reserves that testified before us. The kindness and strong sense of social responsibility of many of the chiefs and business leaders that appeared before the committee made a strong impression upon me and my honourable colleagues.

I was also impressed by the vision of the First Nations that appeared before the committee. These First Nations know where they want to go. The First Nations sponsoring this bill illustrate this observation. Instead of taking a passive approach to managing their resources and simply collecting the royalties from the exploitation of their assets, the sponsoring First Nations would like to take a more active approach and engage in joint ventures by pooling their resources to purchase their own rigs, and by taking control of the business aspects of oil and gas exploitation — for example, by selling leases in less productive wells to partnering communities and companies that specialize in the extraction of diminishing assets.

In addition to streamlining decision-making by First Nations, the legislation protects the financial interests of First Nations communities. Chiefs and councils will no longer be the sole decision-makers on monies management. Instead, a financial code will be subject to community ratification, including all band members living on and off reserve, thereby giving the community direct influence on the framework of control of monies.

First Nations outlined their plans for the establishment of heritage trust funds for the long-term management of capital assets of the reserves. The First Nations generally plan to use operating revenues for future investments.

I am looking forward to discussing this valuable, First Nations-led initiative with my honourable colleagues. I am pleased to reiterate my support for the three First Nations that have been so actively pursuing it over the past 10 years.

I am confident that honourable senators will find this initiative worthy of support.

• (1700)

Hon. Gerry St. Germain: Honourable senators, I rise to speak to Bill C-54, in respect of First Nations oil and gas exploration, exploitation and moneys management and regulation. Our honourable colleague opposite has outlined all of the pertinent details of the bill and, given the urgency with which this bill has been delivered to the chamber, I will be brief in my remarks. I believe this was Senator Zimmer's first speech in this place, and I would like to congratulate him on his most excellent and professional delivery. I am proud to be on the same committee to work with him on behalf of our Aboriginal First Nations.

The bill was received only today, so there has been little opportunity to study it in the kind of detail that such an important matter requires. This is unfortunate because the intent of the bill is important to all First Nations in Canada, whether they opt into legislation such as that proposed in Bill C-54, or other pieces of enabling legislation.

The federal government's policy since 1995 has been to negotiate with each individual Aboriginal group all matters that come under what the Constitution describes as "treaty and Aboriginal rights" — specifically those rights outlined in section 35. I have stood in this place before to express my concerns about this government's approach to resolving treaty and, specifically, self-determination and self-government rights.

Negotiating details of the principal right of self-government is fundamentally wrong. First Nations have always had this right, which is inherent, and to diminish it by way of negotiating resource and development initiatives prior to recognizing and enabling self-government is simply putting the cart before the horse. In some ways it is illogical, at best.

The Aboriginal peoples of Canada are contributing founders of Canada and deserve the same respect and treatment that has existed between provinces and the federal government. Honourable senators, Bill C-54 will allow the White Bear, the Blood Tribe and the Siksika First Nations to exercise full or partial authority over the management and regulation of their oil and gas resources and to collect and manage the revenues derived from their extraction.

Initially, in a 1994 pilot project of the Indian Resource Council, a series of agreements were signed with the federal government to co-manage the oil and gas resources in their reserve lands. Management and control were to be transferred to First Nations by 2005. However, legislation is now required to complete the deal.

Honourable senators, Parliament must do what can be done to restore hope, health and good fortune to our Aboriginal communities across Canada. If the process and the terms that resulted in Bill C-54 are what the members of these three First

Nations want, then Parliament must be supportive and make it so. However, it is also incumbent upon members of this chamber to make known what other First Nations have to say about Bill C-54.

As to process, the chiefs of the respective First Nations of the Maskwacis Cree and their councils have not received any formal notice or consultation in respect of the bill. As well, none of the four First Nations mentioned above has been notified, individually or collectively, of any opportunities to appear before the Aboriginal Affairs Committee during its consideration of the proposed legislation.

I can tell honourable senators that these First Nations would have expressed their serious concerns regarding the bill's substance. For many years these First Nations have been in litigation on both oil and gas interests and on the matter of the federal government's management of their monies. First Nations have also raised the following observations: There are incorporations by reference of provincial laws in some sections of the proposed legislation which assumes a priori some elements of the litigation surrounding the natural resource transfer agreement. Several sections of the proposed legislation set up parameters or restrictions for Indian government law-making authority, contrary to several recognized international laws, norms and standards. Questions of any potential impact on existing legislation, for example the Natural Resources Transfer Act 1930, the Samson Cree Nation, the Ermineskin Cree Nation and other litigation go unmentioned; for example, there are elements of the proposed legislation in respect of financial transfers that are being enforced in current discussions on trust deeds. Fiduciary duties and obligations under treaty and liabilities thereunder appear to be waived by the non-reference in the legislation. Reference to Canada's international legal obligations must be analyzed and clarified for any potential impacts to Treaty No. 6, as Canada's obligations are being placed on First Nations to comply.

Some financial obligations have been created in Bill C-54, for example with the preparations of codes and auditing requirements that carry no indication as to the Crown's obligation to pay for this under the proposed legislation. The proposed legislation sets up under numerous articles federal paramountcy over First Nations law, which again is being done without consultation or consent.

Honourable senators may have concerns about the non-derogation clause as it is worded in this bill. The Standing Senate Committee on Legal and Constitutional Affairs has looked at this matter. The Honourable Senator Watt has been a driving force in having this whole question of the non-derogation clause scrutinized. It is hoped that in committee this will be clarified to the satisfaction of people such as Senator Watt who has devoted much of his lifetime to protecting the rights of our First Nations people.

Honourable senators might want to refer Bill C-54 to the Senate Legal Committee but I do not think it will be necessary. It is rather more likely that it will be referred to the Senate Committee on Aboriginal Peoples, where the non-derogation aspect will be studied.

In the final analysis, the White Bear, the Blood Tribe and the Siksika deserve to receive what they have requested. Senator Zimmer has clearly enunciated some of the results that we have experienced under the leadership of Senator Sibbeston, Chairman of the Aboriginal Committee. Our First Nations, if given the opportunity to control their own destiny, will rise to the requirements of leadership and to the levels of accountability expected by all Canadians. If we are hunting elephants, we should not be following rabbit tracks.

Nothing in this world is perfect, and that includes legislation. However, bear in mind that we are dealing with proposed enabling legislation that could benefit our First Nations from coast to coast. There are protections by way of referendums and votes within the communities for our First Nations people on the ground that will allow our First Nations to rise to the level of economic sustainability that they so deserve.

Hon. Nick G. Sibbeston: Honourable senators, I too am pleased to rise in support of Bill C-54. This is an important step forward, not only for the three First Nations in Alberta and Saskatchewan who have been working on this proposed legislation for nearly ten years but also for many First Nations across the country who will eventually benefit from the provisions of this bill.

We have heard about Kashechewan's water disaster and the tragedy of Davis Inlet. Committee members travelled across the country to gather evidence for our study on Aboriginal economic development. We were in British Columbia and Alberta a number of weeks ago to study the involvement of Aboriginals in industrial development.

• (1710)

It is very encouraging. It is fascinating. It is a phenomenon happening across our country where Aboriginal people are getting involved in business and many of them are succeeding. We hope through our study to point out and show this phenomenon and movement. It is very interesting and inspiring to see such progress by Aboriginal peoples.

There are always little pockets and situations where Aboriginal people are not fairing too well. However, for the most part there has been a positive, progressive movement in this area of Aboriginal economic development. This bill will add to the success of Aboriginal people. Both Senators Zimmer and St. Germain have done an excellent job in describing the purpose of the bill.

I will restrict my comments to two areas in the bill. The first deals with the non-derogation clause. Senators know that I have raised the issue of the non-derogation clause because there was a standard bill used from 1982 to about 1986 and then the government began changing wording. The changes are very slight, but I am concerned about these changes.

It is not the original clause based directly on section 25 of the Constitution. Senators will notice that the non-derogation clause in this bill is not the original wording based on section 25, but rather one that adds extra words and phrases that shift the focus away from the protection of Aboriginal and treaty rights in section 35 toward an interpretation of those rights as contained in Supreme Court decisions like *Sparrow*.

I do not think this is what Parliament should be doing. I do not think Parliament should be tailoring wording to favour the federal government. This is what I feel the Department of Justice is doing in changing the words of the non-derogation clause.

However, I have spoken to the First Nations involved, and they tell me that they can live with this wording. They say that the overall good this bill will do far outweighs the potential damage that could result with the change in wording of this one clause. I am willing to accept their decision.

These are not normal times. In the next few days, we will be dealing with bills in an urgent manner. However, there is still much confusion over this matter. In correspondence with both Ministers Scott and Cotler, the government has acknowledged to me that this matter must be clarified and a new approach must be found.

The matter of non-derogation clauses has been assigned to the Standing Senate Committee on Legal and Constitutional Affairs, but the committee has not yet been able to get at the study. When the Senate returns in the New Year, I am hoping that the Legal Committee will deal with this matter as a first order of business.

I would like to touch on one other matter briefly. Bill C-54 is described as a sectoral self-government bill, meaning it is a small step forward in a limited area toward First Nations self-government. It is legislative self-government, not section 35 self-government.

There have been other pieces of legislation that might be viewed as sectoral self-government, even if they are not given that name. There are also full legislative self-government agreements, like the Westbank First Nation Self-Government Act, as well as constitutionally protected self-government agreements like the one we dealt with last winter in respect of the Tlicho First Nation.

The Standing Senate Committee on Aboriginal Peoples has been studying Senator St. Germain's bill, S-16, which deals with the recognition of First Nations self-government. It seems likely that this mix will grow even more complicated in the coming years. I bring it to the attention of the senators because it is an area we may need to look at again. Some work has been done in this area under the leadership of Senator Watt, but much has changed in the last five years and more change is necessary in the next five years.

At some point we need to look at the patchwork of self-government processes to ensure that the pieces of the puzzle fit together in a logical and coherent way that provides a maximum benefit to Aboriginal people wherever they live in Canada.

Both of these matters are things we can come back to at a later date. For the moment, it is important that we move forward so that First Nations can advance economically and politically. A lot of work has been put into Bill C-54, and I urge senators to pass it as soon as possible.

The Hon. the Speaker: I see no honourable senator rising to adjourn or speak to this matter. Are senators ready for the question?

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Zimmer, bill referred to the Standing Senate Committee on Aboriginal Peoples.

BUSINESS OF THE SENATE

The Hon. the Speaker: Does the Honourable Senator Stollery have a point of order?

Hon. Peter A. Stollery: Honourable senators, I would like to revert and ask the unanimous consent of the chamber for the Standing Senate Committee on Foreign Affairs to sit at 5:15 this afternoon. We are scheduled under our normal procedure to sit at 5. We have witnesses —

Senator Prud'homme: Adjournment of the Senate qualifies.

The Hon. the Speaker: Honourable senators, Senator Stollery is asking for leave for the Standing Senate Committee on Foreign Affairs to sit even though the Senate is now sitting. Is leave granted?

Hon. Madeleine Plamondon: Not granted.

Hon. Noël A. Kinsella (Leader of the Opposition): Just to review, it is now 5:15. At six o'clock we will either have to rise or come back at eight o'clock. Leave is required to not see the clock.

Senator Stollery is in a situation as chair of a committee where a minister or parliamentary secretary is waiting. The senator can wait until six o'clock, at which point he will be forced to not grant leave to not see the clock so that he can hear from this witness. In other words, the chamber will have to rise and come back at eight o'clock given the order before us.

Under those circumstances, perhaps the wise thing to do would be to grant leave so that his committee can hear the witness, and maybe the Deputy Leader of the Government can share with us what he intends to do when we get to one minute before six.

Senator Prud'homme: I think this point of order is unfair.

The Hon. the Speaker: Senator Stollery rose and I asked him if it was a point of order. In effect, he was requesting leave for the Senate to consider an exception to our rule so his committee could sit. Senator Plamondon was clear in her response when she said that leave is not granted, so leave is not granted.

However, we have a custom of house leaders having exchanges, in this case the Leader of the Opposition, on matters of house business. I do not see why we should not do that. I heard Senator Kinsella. I will now hear the Deputy Leader of the Government, and then I will go to Senator Prud'homme.

Hon. Bill Rompkey (Deputy Leader of the Government): I would concur with Senator Kinsella. We would be agreeable to let the committee sit now. He makes a valid point that at 6 p.m. we would normally adjourn anyway. My intention would be to finish debate on government orders, which will not take much longer. Then there are a couple of items at day 15 that certain senators would like to speak to today. I think we could conclude by six. If we do not, we could not see the clock at six. That would be my intention.

• (1720)

Hon. Marcel Prud'homme: I have been following what happened on this side of the corner. I suggest our chair of the Foreign Affairs Committee seize the opportunity that has been put to him by both Senator Kinsella and Senator Rompkey. I know enough of the senator and you should know enough by now that if she says no, I doubt any one of us will change her mind today. She is entitled, as is any honourable senator, to say yes or no. As far as I am concerned in this corner, I would certainly side with her if anyone is playing games. She said no. She will say no again. I tried to talk with her. That is where we stand.

Why not take the suggestion of Senator Kinsella and Senator Rompkey to see what kind of progress will take place before six o'clock, and the committee can sit at six o'clock. You had already announced that it would be at the adjournment of the Senate but not earlier than five o'clock. We are only at 5:20, but if I were the honourable senator, I would not push my luck. Otherwise, I will join her.

Hon. Consiglio Di Nino: Honourable senators, with respect to the issue before us, we should inform our colleagues that if we are not finished by six o'clock, if we can agree, in order to conduct the hearing on Bill C-25, which is a bill I am told the government wants, this is an opportunity for us to deal with that particular bill. If at six o'clock the business of the Senate is not finished, I will rise and inform people that we do see the clock, which means we will have to come back at eight o'clock.

Hon. Francis William Mahovlich: I wonder if I could ask Senator Plamondon the reason why?

Senator Stollery: Honourable senators, I want to end this and give everyone a chance to finish the business, if we can, before six o'clock.

As I understand this, I think we generally agree that the committee can sit at six o'clock. I may be wrong, but that is my understanding, and that would require the consent, if there is a motion not to see the clock. It revolves, at this point, around the motion not to see the clock. If someone objects to not seeing the clock, then the Senate comes back at eight o'clock and all the rest of it. That is what I want to have clear. I do not want to take any more time because I know we have business to do here.

Senator Prud'homme: I am entitled -

The Hon. the Speaker: Senator Prud'homme, I would like to clarify the situation, so we can get on with our business. I have seen the Leader of the Opposition and the house leader, and I have allowed other senators to participate in terms of house business, which is out of the ordinary for our rules. It is up to me

in the chair to try to bring it to an end, so we do not have a lot of back and forth. We have already spent ten minutes on this issue. I propose to now clarify where we are.

Leave was not granted. I will ask Senator Plamondon if she has changed her mind based on what she has heard, and I can tell by her body language there is no leave.

At six o'clock I will ask if it is agreed we not see the clock. If it is agreed that we not see the clock, we will continue, and Senator Plamondon's refusal to give leave will still stand. There will be no leave for the committee to sit, Senator Stollery. If someone refuses to give leave for us not to see the clock at six o'clock, then we will rise and return at eight o'clock, unless we have adjourned before that.

THE ESTIMATES, 2005-06

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) ADOPTED

On the Order:

The Senate proceeded to consideration of the seventeenth report of the Standing Senate Committee on National Finance (Supplementary Estimates (A), 2005-06), presented in the Senate earlier this day.

Hon. Donald H. Oliver moved the adoption of the report.

He said: Honourable senators, I am pleased to table the report of the Standing Senate Committee on National Finance on the Supplementary Estimates (A), 2005-06. These supplementary estimates were referred to the committee on November 1, 2005.

The committee held two meetings to review the estimates. At the first meeting, officials from Treasury Board Secretariat provided explanations of the structure and content of the supplementary estimates. At the second meeting, the Honourable Reg Alcock, President of the Treasury Board, explained to the committee further changes to the government spending plans contained in the supplementary estimates. Honourable senators, the report of the committee on the Supplementary Estimates (A), 2005-06, is based on the information gathered from these two meetings. With these supplementary estimates, the federal government is seeking Parliament's approval to spend \$7 billion in expenditures that were either not sufficiently developed or known in time to be integrated into the 2005-06 Main Estimates, which were tabled on February 25, 2005. The supplementary estimates also provide information about expenditures amounting to \$6.5 billion in projected statutory spending that Parliament has already approved in legislation. Therefore, the Supplementary Estimates (A), 2005-06, total \$13.5 billion.

The details of these proposed expenditures are well explained in the committee's report. I will not take much of your time, honourable senators, but I want to share with you some of the observations contained in the committee's report. I believe that this will facilitate the Senate's consideration of the appropriation bill. I also want to take this opportunity to express concerns I have with respect to the discrepancy between the Main Estimates and the budget.

Honourable senators, I wish to stress that the committee was pleased to see that the Supplementary Estimates (A), 2005-06, continued to build on improvements introduced last year. These improvements are intended to provide greater transparency and consistency with other estimates documents and to enhance accountability to Parliament.

Three new improvements are of particular interest. First, a new section has been added to each departmental page. It summarizes all transfers between votes, both within and across departments, and provides a full description of the specific initiative for which the money is being realigned.

It provides useful information on the flow of funds from one department or agency to another and greatly helped in the committee's review of these supplementary estimates.

Second, each departmental page contains information on the savings identified by the government's expenditure review committee that were announced in the 2005 federal budget. It is possible, for instance, to determine for each department the savings realized by the government on procurement, property management and individual department efficiencies. This information increases the transparency of spending, savings and reallocation of funds.

Third, there is better information in relation to the allocation of the Treasury Board contingency vote items called, Treasury Board Vote 5. More precisely, the summary table on TB Vote 5 provides an overview of the rationale behind the allocation of contingency funds to departments and agencies.

Honourable senators, while the committee commends the excellent progress made in recent years in the presentation of the estimates document, we are concerned about the lack of consistency between the Main Estimates, or reports on plans and priorities, and the budget plan. It is precisely this discrepancy between these documents that contributes to large supplementary estimates such as the current ones. Let me recall with honourable senators that in Supplementary Estimates (A) 2005-06, the federal government is seeking Parliament's approval for an additional \$7 billion in spending. This is a very large sum of money.

• (1730)

The most important factor that contributes to the disparities between the information in the Main Estimates and the budget document is timing. The fact is that according to House rules, the Main Estimates must be tabled before March 1 of each year. They therefore typically cannot contain the most up-to-date information because federal budgets are usually tabled in late February. This information follows in the Supplementary Estimates later in the fiscal year, usually in the fall and again in the spring. The net result is that parliamentarians must work with out-of-date information in approving the federal government's spending plans by June 23. This, in my view, is clearly unacceptable.

Another important factor that contributes to the discrepancy between the Main Estimates and the budget is the lack of cooperation between the Treasury Board secretariat and the Department of Finance. Currently, budgets and estimates documents are prepared almost in secret by the Department of Finance, and the Treasury Board rarely has an opportunity to see or know what is going on in them until they are being tabled in Parliament. This means that when the Main Estimates come down, they are not based on what is in the budget but what Treasury Board has been able to glean from its six to nine months of work with various departments.

David Moloney, Assistant Secretary of the Expenditure Management Sector at the Treasury Board Secretariat, told our committee that one possible solution to reducing the disparity between the Main Estimates and the budget would be to fix the lag between the two documents. That would require changing the tabling of Main Estimates or otherwise changing budget day. He cautioned that there would be challenges on both sides. Another option which is practiced in some countries deals with multi-year appropriations such as that described today by Senator Kinsella. Still another option would be to establish a national budget office much like that in other jurisdictions. For example, in Australia the preparation of a budget involves a large number of participants. In Australia, the Expenditure Review Committee, a cabinet committee of ministers chaired by the Prime Minister, is primarily responsible for developing the budget. However, the Department of the Treasury, the Department of Finance and Administration, the Department of the Prime Minister and the cabinet provide advice and support to the Expenditure Review Committee. The Department of Finance and Administration coordinates the preparation of the budget and is responsible for statements on expenses and non-tax revenues. The treasury is responsible for assessments of the economic and fiscal outlook and estimates of tax revenues.

Honourable senators, I was pleased to hear that the federal government is examining this issue. On page 7 of a document entitled, "Management in the Government of Canada: A Commitment to Continuous Improvement," tabled in October of this year, the government indicated that in 2006 it would — and listen to this language — "consult with parliamentarians to seek ways to better reflect budget spending forecasts in the Main Estimates and link commitments made in reports on plans and priority with results set out in departmental performance reports and support better parliamentary scrutiny of the estimates." On page 35, the document indicated that the federal government would seek ways in which to bring the expenditure plan in the estimates more in line with those outlined in the budget to better enable parliamentarians to track spending over the budget cycle. They will then have a better appreciation of what the government intends to accomplish with new investments and will be able to check back more easily and hold the government to account.

I urge the federal government to consult with the Standing Senate Committee on National Finance. I also strongly recommend that a review be undertaken on the budgetary process in a number of other countries, including Australia, New Zealand and the United Kingdom, to learn about experience gained elsewhere in streamlining the budget process.

Honourable senators, Supplementary Estimates (A) 2005-06 is requesting an additional \$148.4 million in support of the government online GOL initiative. As you are probably aware, this initiative is aimed at supporting the implementation of a

common electronic infrastructure and multichannel service delivery strategy. Since budget 2000, a total of \$880 million has been allocated to government online. Of this amount, \$429 million has been requested through supplementary estimates. In other words, almost half of the total amount has been requested by way of supplementary estimates. This committee has, in the past, been concerned with supplementary estimates being used in this manner. The federal government has known for many years that it would be doing a lot more work on government online and, had they cooperated with Treasury Board, the \$148.4 million to support GOL would not need to be covered by way of a supplementary estimate.

Honourable senators, another example of the spending plan that could have been incorporated into the Main Estimates rather than the supplementary estimates relates to the implementation of the Public Service Modernization Act. It was known from the time the act received Royal Assent that the legislation would be implemented over two and a half years. Despite this, 32 departments and agencies have sought funding through Supplementary Estimates (A) for fiscal year 2005-06 to modernize their human resources management. We must seriously question why departments and agencies are seeking funds through supplementary estimates instead of having funds placed in their reference levels.

Another item which, in my view, should have been in the Main Estimates rather than the Supplementary Estimates (A) 2005-06 included \$140 million to Industry Canada for strategic investment and Canadian automotive engineering.

Honourable senators, I am concerned about the following: Why are the supplementary estimates not organized in the same way as the Main Estimates? Introducing the use of program activities into the supplementary estimates would increase their transparencies and it would assist parliamentarians in comparing the supplementary estimates to the Main Estimates. This is another very important issue that needs to be addressed by government in consultation with Parliament.

Honourable senators, in conclusion, overall improvements have been made to the Estimates documents but many challenges lie ahead and there is much more for us to do. This concludes my remarks on the report of the standing committee.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I have a question for Senator Oliver.

In his seventeenth report, on page 8 and page 9, the honourable senator has a section dealing with the possible impact of prorogation or dissolution. On Tuesday, November 15, you advised us that officials from the Treasury Board appeared before your committee and the following day, Wednesday, November 16, the Prime Minister, appearing on Canada AM, said that raises to the military and their pay was in jeopardy if the Estimates did not pass. My understanding is that the officials, when they explained what happens with prorogation and dissolution, told a different story.

Could you clarify that matter so that all honourable senators understand who was right? Was it the officials or the Prime Minister?

Senator Oliver: Honourable senators, for Mr. Moloney, it was his first day to appear in his new position as the representative of Treasury Board to explain the estimates and the supplementary estimates to parliamentarians. He indicated that, as an employer, the federal government is bound to pay according to agreements that have been duly signed and ratified. A portion of these payments is retroactive, since some of the settlements were a couple of years old. Departments must make these payments, but their budgets have not yet been increased.

When Mr. Alcock appeared before the committee, he stressed that in the event of an election, the items included in the Supplementary Estimates (A) 2005-06 would not be funded through Treasury Board Vote 5, and the special warrants would fall or have to wait until a subsequent government. In terms of employer/ employee relationships that had already been approved, Mr. Moloney said that that money would be paid and will continue to be paid. He went on to explain in detail that, in the event of an election, the government can move to Treasury Board vote 5 and can also use warrants to fund government programs.

• (1740)

Senator Kinsella: Therefore, the Prime Minister was wrong or misleading. He was the Minister of Finance and clearly would have known the facts. What conclusion could one draw, other than that there was some misleading going on? Surely, as Minister of Finance, he would have known how the system worked.

Senator Oliver: One would certainly think so, honourable senators.

The Hon. the Speaker: As no senator is rising to speak or to adjourn the debate, are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I would like the table to call Motion No. 5, standing in the name of Senator Kinsella, followed by Motion No. 15, standing in the name of Senator Grafstein. I was hoping that we could deal with those items before six o'clock and conclude our sitting, as we had discussed earlier.

The Hon. the Speaker: As the items are not government business, we need unanimous consent.

Senator Angus: I would like to have Bill C-259 called.

The Hon. the Speaker: With respect to Senator Rompkey's request, under our rules he is entitled to call government business in the order in which he determines is most useful to our work. Other items can be called only with the unanimous consent of all senators.

Is leave granted?

Hon. Madeleine Plamondon: No, leave is not granted.

DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Losier-Cool, for the second reading of Bill S-41, to amend the Department of Foreign Affairs and International Trade Act (human rights reports).—(Honourable Senator Rompkey, P.C.)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, we would be prepared to give this bill second reading and have it referred to the appropriate standing committee.

The Hon. the Speaker: As no senator has risen to speak or to adjourn the debate, are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Kinsella, bill referred to the Standing Senate Committee on Human Rights.

NATIONAL PHILANTHROPY DAY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Jerahmiel S. Grafstein moved second reading of Bill S-46, respecting a National Philanthropy Day.—(Honourable Senator Grafstein)

He said: Honourable senators, National Philanthropy Day occurs annually on November 15 as a special day for those active in the philanthropic community. National Philanthropy Day

events are already held in every province and region in Canada involving thousands of people on November 15 every year. Initiated at the grassroots level, it continues to grow, led by individual charities and organizations such as the Association of Fundraising Professionals.

Canada would lead the world if Parliament formally recognized National Philanthropy Day. Parliament can have a tremendous influence on public behaviour. The creation of a day recognized by Parliament would send a powerful message to all Canadians that charitable giving and volunteering are critical to our society and is a crucial element in all aspects of Canadian life. Such a day would provide a forum for all charities and volunteers across the country to gather together in our villages, towns and cities to share their stories and celebrate their successes, large and small.

It is an established fact that celebrating these stories and identifying the ongoing need for support is one of the most effective ways to inspire others to give of themselves and their resources. For instance, Terry Fox's story is a powerful example of the effect that one person's actions can have on the public's desire to support great and good causes.

Parliament's recognition of this day is important for a multitude of reasons, but I will briefly describe only four. First, it encourages giving. Support for the charitable sector must come from a variety of sources. Direct government funding remains the primary and essential source for most organizations. However, in an era of shrinking budgets and expanding needs, philanthropy is becoming an ever-increasingly important part of the solution.

Second, it builds communities and civic society. Giving encourages greater citizen responsibility. When people give, they invest a part of themselves in their community and create a stake in the future of our society. Giving can bring together people who might normally have nothing to do with one another by focusing them on a common goal.

Third, recognition of this day would further strengthen the growing partnership between the federal government and the voluntary sector. The federal government began a partnership in the year 2000 and provided \$94 million to fund the jointly administered Voluntary Sector Initiative. The VSI resulted in a number of outcomes that were jointly recommended by government and the sector itself, including the largest regulatory reform of the charitable sector in more than a generation.

Finally, recognition of National Philanthropy Day is a grassroots, non-partisan matter, something that the Canadian public has strongly and consistently supported by voice and deeds. How so? Studies report that 90 per cent of Canadians believe that non-profits are becoming increasingly important to all Canadians. Fifty-nine per cent of Canadians believe that non-profits do not have enough money to do their essential work. Every day, non-profits serve on the front lines of hundreds of issues facing our country, from social services to health care, to the environment, to the arts and beyond.

Canada is a land of choices. Canadians can commit their time or to spend their money in countless ways, but for volunteers and donors philanthropy is not just another choice. It is a statement that goes to the meaning of their very life.

Already, more and more Canadians are coming to rely on programs and services provided by non-profit organizations. The voluntary sector has an indelible impact on all Canadian society. There are 81,000 registered non-profits in Canada that receive approximately \$10 billion in contributions annually, according to Statistics Canada, but the impact of the voluntary sector goes beyond philanthropic programs and services.

(1750)

According to the recent Cornerstones of Community: Highlights from the National Survey of Non-profit and Volunteer Organizations study, the sector posted \$112 billion in revenues in 2003 and employed more than 2 million people. In addition, these organizations draw on 2 billion volunteer hours every year, the equivalent of 1 million full-time jobs. Every Canadian has been touched by the work of our voluntary sector in some way. Each senator is deeply involved in the voluntary sector in their regions.

The non-profit sector also has an impact on the financial health of the economy. The economic contribution of the non-profit sector is larger than many major industries in Canada and amounted to 6.8 per cent of the gross domestic product in 1999 according to Statistics Canada. The non-profit sector's GDP is 11 times more than that of the motor industry and more than four times that of agriculture.

National Philanthropy Day has the support of many volunteer organizations including Imagine Canada, Philanthropic Foundations Canada, Community Foundations of Canada, Voluntary Sector Forum, Canadian Association of Gift Planners, and the Canadian Bar Association which represents thousands of non-profit organizations in the country.

Again, honourable senators, I urge you to formally recognize the special date by adopting this bill. Should we not take one day every year to honour their efforts and the efforts of all Canadians and organizations across Canada that support them?

Honourable senators, at the core of each faith is the eternal question: Is it more blessed to give than to receive? National Philanthropic Day is Parliament's answer to that question in the affirmative. I urge you to pass this bill speedily, this magnificent parliamentary gesture to Canadians and the volunteer sector.

Senator Prud'homme: I agree. The last phrase of Senator Grafstein was superb.

On motion of Senator Prud'homme, debate adjourned.

EXCISE TAX ACT

BILL TO AMEND—SECOND READING—DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Keon, for the second reading of Bill C-259, to amend the Excise Tax Act (elimination of excise tax on jewellery).

—(Honourable Senator Angus)

Hon. W. David Angus: Honourable senators, I rise to urge the swift and expeditious passage of this bill, an amendment of the excise tax, which is an elimination of the excise tax on jewellery. This bill will eliminate the punitive, outdated and unfair excise tax on jewellery. This tax charges Canada's jewellers 10 per cent on the sale of products manufactured in this country. As pointed out by Senator Di Nino, Senator Meighen and Senator Maheu, this ancient excise tax on jewellery is today unique to Canada, as an industrialized country, and is the only remaining so-called luxury tax in effect in Canada.

Lest one think this is a partisan intervention on my part, I would simply say to honourable senators that Senator Maheu, on November 3 said:

I find it patently contemptuous that the senior mandarins in the Department of Finance continue to shilly-shally on this issue by teasing and abusing everyone involved in the jewellery industry and Canadians in general by the nonsense of incremental reduction of this tax.

She went on to say:

Whatever we can conclude, we know that this jewellery tax serves no social policy objectives and it is inappropriate, regressive, arbitrary and just plain dumb.

That is Senator Maheu speaking here, for and on behalf of the government.

Honourable senators, Bill C-59 was passed in the House of Commons with support from members of all parties including 13 of the government's parliamentary secretaries last June 15. It was introduced and received first reading in the Senate the next day but that was five full months ago. Why, honourable senators, is this simple and apparently uncontroversial piece of legislation, which is urgently needed and long awaited by Canada's respected jewellery industry, still languishing on our Order Paper without being referred to committee?

Does the government support the bill? If not, why not? Is it because the bill was initiated by a Conservative private member? Is it because it purports to do directly what the government proposed to do indirectly over four years? Honourable senators, Parliament, especially the Senate, is again losing credibility with the Canadians generally and with the jewellery industry in particular by the dithering treatment this bill is receiving in its passage through the parliamentary process.

Honourable senators, as we all know, it appears this Parliament is about to be dissolved. I urge you all, in the strongest terms, to do the right thing now. Let us give Bill C-259 referral to the Standing Senate Committee on Banking, Trade and Commerce for urgent study and back to this chamber so we can pass it into law this week, thus abolishing the excise tax on jewellery once and for all.

The House of Commons Standing Committee on Finance reported unanimously in 1996, and again eight long years later in 2004, that the excise tax, and I quote, "on jewellery is an anachronism which should be abolished, removed and expunged from the law books of this country."

I could go on, but I think it is clear what issues are facing us tonight. I want to say the following: Christmas, honourable senators, is coming soon. Canada's jewellery stores will be full of shoppers of every political stripe, of every gender and of every persuasion and I ask honourable senators, shall we punish them any longer from buying trinkets and gifts for their relatives. I think it is deplorable that we should participate, or be involved, in this terrible thing. Let us get into the proper holiday spirit and abolish the excise tax on jewellery before it is too late, in the interests of all Canadians. I ask you to support me so earnestly that I move that this bill be referred now to the Standing Senate Committee on Banking, Trade and Commerce for urgent and immediate study.

Hon. Madeleine Plamondon: Honourable senators, I would like to comment to Senator Angus.

[Translation]

You talked about Christmas shopping. There are people who will not do any shopping because they are poor. This will not change anything in their situation. The Christmas spirit is about helping the poor. The bill that I sponsored, which received unanimous support, may die on the order paper in the other place. It specifically deals with these people. Some will have to borrow money at Christmas, but it will be to pay for the basics, and more often than not they will have to pay exorbitant rates. There are still criminal interest rates set at 60 per cent.

Honourable senators, I would like you to influence your colleagues in the other place so that things are different, because it is within the parties that these issues are settled. Let us not forget the poor!

• (1800)

[English]

Hon. Bill Rompkey (Deputy Leader of the Government): I move adjournment of the debate.

The Hon. the Speaker: It is moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Losier-Cool, that further debate be adjourned to the next sitting of the Senate.

Debate suspended.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, I observe that the time is now 6 p.m. Under our rule 13, I must now leave the chair until 8 p.m.

Hon. Bill Rompkey (Deputy Leader of the Government): I wonder if perhaps we could have agreement not to see the clock, Your Honour.

The Hon. the Speaker: Is leave granted not to see the clock?

Hon. Consiglio Di Nino: I spoke a few minutes ago about this issue. I am seeing the clock, Your Honour, because as I said a few moments ago, the government has asked us to deal with

Bill C-25. We have had witnesses waiting downstairs for the last hour. I suggested that I would do that. If you do not want Bill C-25, then I will not see the clock.

The Hon. the Speaker: It is 6 p.m.; I must leave the chair. I will ask again just to be sure I have understood the will of the house correctly.

Is it agreed, honourable senators, that we not see the clock?

Hon. Noël A. Kinsella (Leader of the Opposition): I think we need to hear from the Deputy Leader of the Government. If the Deputy Leader of the Government would give us an indication as to the business we would be dealing with, we could make an intelligent decision as to whether to see the clock or not. How much more work does my honourable friend anticipate the house dealing with, recognizing that all house business is not government business?

Senator Rompkey: I do not think there is much more on the Order Paper. I would ask to seek leave to revert to Notices of Motions. Apart from that, there are not many more items on the Order Paper, and we could conclude very quickly.

The Hon. the Speaker: I am a victim of the clock, honourable senators. I am sure Senator Plamondon, who wants the floor, has heard. I have to ask. I have no other alternative but to seek the will of the house. Is leave granted not to see the clock?

Some Hon. Senators: Yes.

 $\boldsymbol{Hon.}$ Madeleine Plamondon: I ask that we see the clock and come back at 8 p.m.

The Hon. the Speaker: Leave is not granted.

The Senate adjourned.

• (2000)

EXCISE TAX ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Keon, for the second reading of Bill C-259, to amend the Excise Tax Act (elimination of excise tax on jewellery).—(Honourable Senator Angus)

The Hon. the Speaker: Honourable senators, the sitting is resumed. We are on Orders of the Day.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I wish to raise a point of order. With respect to Item No. 1 on Commons Public Bills, it is my understanding that this matter was not properly adjourned. I would like a ruling from His Honour before we proceed.

The Hon. the Speaker: Rather than deal with it as a point of order, perhaps I could put the motion and we can complete our work, if it was not completed.

It is moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Losier-Cool, that further debate be adjourned to the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: On division? We will have a vote. The bells will ring for one hour, unless there is agreement for a shorter bell.

Hon. Bill Rompkey (Deputy Leader of the Government): For the people in Victoria, we better make it 30 minutes.

Hon. Rose-Marie Losier-Cool: There is agreement.

The Hon. the Speaker: The bells will ring for 30 minutes. The vote will be taken at 8:31.

Call in the senators.

• (2030)

Motion agreed to on the following division:

YEAS THE HONOURABLE SENATORS

Joval Austin Losier-Cool Bacon Lovelace Nicholas Ranks Mahovlich Callbeck Mercer Carstairs Milne Chaput Mitchell Christensen Moore Cook Munson Corbin Peterson Cordy Phalen Cowan Prud'homme Dallaire Day Ringuette Robichaud Eggleton Rompkey Fairbairn Smith Fraser Stollery Gill Tardif Goldstein

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Andreychuk Gustafson
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ABSTENTIONS THE HONOURABLE SENATORS

Maheu

Plamondon-2

QUESTION OF PRIVILEGE

The Hon. the Speaker: Honourable senators, Senator Spivak has drawn rule 43(8) of the *Rules of the Senate of Canada* to my attention, which reads:

Except as provided in section (9) below, the Senate shall take up consideration of whether the circumstances constitute a question of privilege at not later than 8:00 o'clock p.m., or immediately after the Senate has completed consideration of the Orders of the Day for that sitting, whichever comes first.

I did acknowledge a matter of order before the vote on the adjournment. Our rules are clear that at the first opportunity after eight o'clock a matter of privilege is spoken to. Therefore, I now recognize Senator Spivak on her question of privilege.

Hon. Mira Spivak: Honourable senators, my question of privilege concerns responses to Order Paper Questions about the boundaries of Gatineau Park. The privilege afforded parliamentarians to place questions on the Order Paper and to receive prompt and accurate responses from the government is not to be taken lightly. It is a privilege that predates the Access to Information Act, and it is a privilege that only we and members of the House of Commons enjoy.

On occasion, the responses we receive may not be as prompt as we would want. On occasion, they may appear too general or to be skirting the real question. However, we do not expect the answers given to senators to be in full contradiction of the answers given to members of the House of Commons.

• (2040)

I raise, as a matter of privilege, the example that came to my attention last week when a response was tabled in the House of Commons to a question about the boundaries of Gatineau Park placed on the Order Paper by the Member of Parliament for Ottawa Centre.

We have both been pursuing the matter quite independently because, as the private member's bill introduced last week says, Gatineau Park is the only major federal park that is not protected under the National Parks Act and whose boundaries are not established by federal statute. Moreover the park, only a few kilometres from Parliament Hill, is the only federal park that can have portions of its territory removed without the knowledge, review or approval of Parliament.

I had hoped, by now, to have introduced a bill that would have established that parliamentary oversight, but others have been keeping our law clerks very busy. While preparing for that bill in December 2004, I placed three basic questions on the Order Paper and one very specific question. The three questions on the parks boundaries asked: What changes had been made since 1992; by what mechanism had they been set and recorded; and what was the rationale for each?

A response, signed by the Minister of Canadian Heritage, told of a September 1995 decision by the executive committee of the National Capital Commission to rationalize "the park's legal boundary" with a number of factors. It made explicit reference to "a) The legal boundary of the Park established by Federal OIC (Order-in-Council) in 1960."

It also spoke of an NCC 1998 submission and other documents identified as a submission to Treasury Board saying

In 1998, the NCC's submission on the rationalization of Gatineau Park's former legal boundary was considered and the new legal boundary of the Park was approved.

Any reasonable person reading that response would infer that if the park's boundaries are not established in statute and protected by parliamentary oversight, they are at least established by an Order-in-Council of 1960 that was in some fashion amended through the 1998 submission by which "the new legal boundary of the Park was approved."

Clearly that is what the Member of Parliament for Ottawa Centre inferred when, in September, he placed questions on the Order Paper asking (a) how many times have the park's boundaries changed since they were set by Order-in-Council in 1960; were those changes made by Order-in-Council and if not why not; and by what methods were they changed?

The response he received last week was:

The 1960 Order-in-Council did not establish the Park boundary, but rather provided authority to the National Capital Commission (NCC) to acquire lands for park purposes within an area shown by a wide shaded line on a plan attached to the Order-in-Council.

That is the first clear contradiction. I am told that the 1960 Order-in-Council established the boundary. He is told that it did not.

The member of Parliament was further told that the NCC has authority under the National Capital Act to construct, maintain and operate parks, and it was pursuant to that authority that

...the NCC approved the new boundary of Gatineau Park on November 20, 1997, on condition that the boundary for the Meech Creek Valley be considered only provisional at that time.

That is the second contradiction. Although my question specifically asked about any mechanism through which the boundaries have been set and recorded, there was no reference in the response to me about the NCC approving the new boundary in November 1997.

Finally, the Member of Parliament for Ottawa Centre was told

The February 1998 Treasury Board submission was required, not to define the park's boundary but in order to have all lands within the new Gatineau Park boundary designated under the National Interest Land Mass.

That is the third clear contradiction. I was told that the submission was considered and the new legal boundary was approved. He was told that the approval came a year earlier by the NCC only and the 1998 submission was only a housekeeping matter.

It would be tempting to dismiss these clear contradictions simply as large errors or the work of the uninformed. However, this is not the first time that a senator has received a misleading response to a question about Gatineau Park.

In October 2003, Senator Lapointe sent written notice of a question about an agreement between the NCC and the operators of Camp Fortune ski centre specifically regarding a requirement to file an annual activity plan and whether those plans had been filed. He was told clearly that the operators had "provided operating plans in accordance with the obligations of the lease." Then an access to information request found that they had not between 1999 and 2002.

I believe that the right of any senator to place questions on the Order Paper or to ask questions on the floor or to send written notice of a question and to receive an accurate response is a very important privilege. Therefore, the receipt of inaccurate information, perhaps wrongful information, is a grave and serious breach.

It is especially so in the context of preparing legislation to be introduced in this chamber or in the other place. I mentioned that the Member of Parliament for Ottawa Centre had introduced a bill. His other Order Paper question asked for the "metes and bounds," the legal description of the legal boundaries of Gatineau Park, and he was informed that no such description exists. He was informed that the most recent complete description is simply a compilation of the legal survey plan set out in the Treasury Board submission of 1998.

Mr. Broadbent was forced to use the Government of Quebec's legal description of a Gatineau game sanctuary, which almost coincides with the supposed non-boundary of the park.

The Leader of the Government in the Senate may have a particular interest in getting to the bottom of this breach. Last May, he sent our Energy and Environment Committee chairman a copy of the letter he had received from the Chairman of the NCC. Senator Banks distributed it to all committee members.

The NCC chairman wanted to set out mechanisms to protect the park. He wrote of the NCC enabling legislation, an international designation, several master plans and classification under the National Interests Land Mass. He mentioned no Order-in-Council or Treasury Board submission or November 1977 decision solely by the NCC on the park's boundaries.

Honourable senators, I hope that the Speaker will agree that a privilege has been breached, that I have raised it at the earliest opportunity, that the breach is serious and that a remedy can be found, which I suggest would be a referral to the Rules Committee to investigate how clearly contradictory information was sent to this place and the other place. If the Speaker so rules, I will make a motion.

The Hon. the Speaker: No senator is rising to make a further comment or contribution to Senator Spivak's question of privilege. It is a rather long presentation and I will take it under consideration. I will read it carefully and try to return with a response, given the circumstances of this time, as soon as possible this week. That is my intention.

• (2050)

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, the hour is late. I wonder if there would be a general consensus to stand all remaining items on the Order Paper until the next sitting of the Senate and that all items stand in their place as they are so ordered today?

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Senate adjourned until Wednesday, November 23, 2005, at 1:30 p.m.

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THE HONOURABLE DANIEL HAYS SPEAKER

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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193



THE SENATE

Wednesday, November 23, 2005

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

[Translation]

SENATORS' STATEMENTS

NATIONAL FEDERATION OF FRANCOPHONE SCHOOL BOARDS

FIFTEENTH ANNUAL CONVENTION

Hon. Maria Chaput: Honourable senators, I recently had the opportunity of taking part in the fifteenth annual convention of the National Federation of Francophone School Boards held in Ottawa from November 2 to 4, 2005.

Founded in 1990, the Federation brings together representatives from every francophone school board in Canada. It has a current membership of 31.

The objectives of the Federation include providing Canada's francophone and Acadian school boards with a forum for exchange and collaborative efforts, supporting the actions of its members on the provincial level and representing its members at the national level.

The Federation sees the ideal school as an institution that is adequately financed, open to its community, equipped with auxiliary structures (child care and early childhood education) and focused on cultural identity.

Because the Federation believes language is directly linked to culture and identity, it feels that the school must play a vital role in the development of its students as francophone citizens.

My congratulations to Federation president Madeleine Chevalier for her excellent leadership and to all those who are instrumental in the success of the Federation.

[English]

FAMILY VIOLENCE PREVENTION MONTH

ALBERTA

Hon. Grant Mitchell: Honourable senators, November is Family Violence Prevention Month in Alberta. As part of that event, I recently had the opportunity, along with Deputy Prime Minister Anne McLellan and Senators Tardiff and Banks, to attend the launching of a book entitled *Standing Together*.

The book is a collection of stories and poems by 103 women who have experienced the horror of family violence. Each has made the difficult step of taking control of their lives under the

most difficult circumstances and putting a stop to the abuse they and their children were experiencing. They tell their stories in their own words. These stories are at once terrifying, tragic and uplifting. They are stories of pain, courage and strength. Ultimately for some, but unfortunately not yet for all of these authors, they are stories of hope for freedom from fear.

That night, a number of the women read their stories and poems to those in attendance. There could not have been a person in that room who was not deeply moved.

Family violence is a serious issue that affects far more people than many of us would know — women, children, the elderly and, yes, sometimes even men. For women, the violence is likely to be particularly severe. Family violence can be emotional and psychological, as well as physical and sexual.

One of the presenters that night made the point that it is sobering to think that in this era when public safety, particularly in the international context, has been given such profile, the least safe place for some Canadians is in their own homes.

This project did not occur by itself. It was the brainchild of Iris Evans, Alberta's Minister of Health. It was supported by Jan Reimer, former Mayor of Edmonton and now the head of the Association of Women's Shelters of Alberta. It was edited by Linda Goyette, an Edmonton author and former journalist and columnist.

Each of these women and especially each of the contributing authors is to be congratulated for undertaking this important project. I know that all senators join me in doing so.

ATLANTIC CANADA WOMEN ENTREPRENEUR TRADE MISSION TO BOSTON

Hon. Catherine S. Callbeck: Honourable senators, last week I led a trade mission to Boston on behalf of the Honourable Joe McGuire, Minister of the Atlantic Canada Opportunities Agency. This trade mission was different from any other trade mission previously led by ACOA in that it was organized exclusively for Atlantic Canadian women entrepreneurs.

Fourteen women-owned companies participated in the trade mission. Their products and services ranged from custom-fit golf equipment to jewellery to organizational and health promotion services.

During the past five months, these women entrepreneurs have been involved in the Women Exporters' Initiative, which trained them to be export ready. They arrived in Boston with the tools, skills and confidence to sell their products and services.

I am pleased to let honourable senators know that many of the participating companies made new sales and signed contracts with their clients and distributors in New England.

While in Boston, the women took part in business meetings. They had opportunities to network with business groups in the Boston area and listened to engaging and highly qualified guest speakers. Through it all, they formed a strong network of contacts among themselves. They all came back to Atlantic Canada with strong leads and valuable in-market experience.

As my honourable friends know, in November 2002 I was asked by the Prime Minister to serve as Vice-chair of the Prime Minister's Task Force on Women Entrepreneurs. The task force was put in place to find out how the federal government could be more supportive of women entrepreneurs and to determine why there were not more women entrepreneurs fuelling the Canadian economy.

• (1340)

In October 2003, we presented our report to the Prime Minister. One of our recommendations was that the federal government should encourage and assist women entrepreneurs to be export-ready. This first women entrepreneur trade mission from Atlantic Canada to Boston is exactly the type of initiative we recommended.

I want to recognize ACOA, International Trade Canada, Export Development Canada and the Canadian Manufacturers and Exporters for organizing this women exporters initiative. They have all worked extremely hard. Their collaboration ensured that more women entrepreneurs from Atlantic Canada will become successful exporters. I congratulate them on their success.

Hon. Senators: Hear, hear!

NORTH ATLANTIC TREATY ORGANIZATION PARLIAMENTARY ASSEMBLY

FIFTIETH ANNIVERSARY

Hon. Joseph A. Day: Honourable senators, I should like to talk for a few minutes today about the fiftieth anniversary of the NATO Parliamentary Assembly and the Canadian senator who was instrumental in the establishment of the assembly. The North Atlantic Treaty Organization Parliamentary Assembly was formed 50 years ago, on July 18, 1955. However, its formation at the time was not without its doubters.

Even though there were calls for the creation of a parallel parliamentary assembly after the inception of NATO in 1949, there was resistance to the idea. NATO, at the time, did not support the idea and favoured national parliamentary associations in each of the member states. Even with such resistance, parliamentarians are a stubborn lot, and the first annual conference of the NATO parliamentarians, with Nova Scotia Senator Wishart Robertson as co-chair, was held on July 18, 1955.

Senator Robertson was born in Barrington Passage, Nova Scotia in 1891, and served in this chamber with distinction from 1943 to 1965. In addition to serving as Speaker of the Senate, Senator Robertson also served as Leader of the Government in

the Senate from 1945 to 1953. He was recognized for his efforts in the formation of the NATO Parliamentary Assembly by being elected honorary life president at the conclusion of its inaugural meeting in Paris in 1955.

Honourable senators, this is indeed a great honour, and one this chamber should be proud to have as part of our history. Many other honourable senators have from time to time served on the NATO Parliamentary Assembly. For instance, Senator Rompkey served recently as vice-president of the assembly, while Senator Nolin currently serves in that capacity.

Our delegation this year was led by Senator Cordy, President of the Canada NATO Parliamentary Association. The delegation for the fiftieth anniversary meeting also included senators Hubley, Andreychuk and myself. We were all pleased to take part in this year's historic meeting, and I know honourable senators will want to join with me in offering congratulations to the NATO Parliamentary Assembly in its fiftieth year of service.

Hon. Senators: Hear, hear!

RESIDENTIAL SCHOOL COMPENSATION PACKAGE

Hon. Nick G. Sibbeston: Honourable senators, today the federal government announced compensation for Aboriginal people that have been in residential schools. That decision is a very good and touching one.

When I heard the decision this morning, I shed a tear, because I was six years old when I went to residential school. My mother got sick and had to go into the hospital. I left the comforts of my home in Fort Simpson — my grandmother and my mother — and I went to residential school for six years in Fort Providence.

With the exception of one summer when I was able to go home for only one weekend, I went home every summer for a few weeks. However, I have cousins who attended residential school and who, for 10 years, never went home. Imagine sending your child away for months, let alone years.

Many of those who attended residential school have suffered a lasting effect. Many have experienced trauma and difficulty.

I am fine physically. People ask me how I am, and I tell them that nothing hurts on me, that I am in good physical shape. However, mentally, there are days and stretches of time when I suffer from depression and sadness and have a hard time coping with life. Fortunately, through a healing process, I and many others are able to function and enjoy life.

A number of years ago, when we started our healing process, many of us said, "We do not want money; we just want our life. We want to experience happiness." Fortunately, some of us have made progress; unfortunately, others have not. Many have died and many suffer today from addictions, such as alcoholism.

Honourable senators, this is a monumental day — not so much because of the money, but because of the gesture and the recognition that it has been really tough on those who attended residential schools. I am very thankful today.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

LIBRARY OF PARLIAMENT

SECOND REPORT OF JOINT COMMITTEE PRESENTED

Hon. Marilyn Trenholme Counsell, Joint Chair of the Standing Joint Committee on the Library of Parliament, presented the following report:

Wednesday, November 23, 2005

The Standing Joint Committee on the Library of Parliament has the honour to table its

SECOND REPORT

Pursuant to the order of reference from the Senate on November 22, 2005, House of Commons Standing Order 111.1, and the order of reference from the Commons on November 17, 2005, the Committee has considered the certificate of nomination of Mr. William Robert Young to the office of Parliamentary Librarian.

The Committee approves the appointment of Mr. Young to the office of Parliamentary Librarian.

A copy of the relevant Minutes of Proceedings (Meeting No. 5) is tabled in the House of Commons.

Respectfully submitted,

MARILYN TRENHOLME COUNSELL Joint Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Trenholme Counsell, report placed on Orders of the Day for consideration at the next sitting of the Senate.

• (1350)

[Translation]

CANADA-FRANCE INTER-PARLIAMENTARY ASSOCIATION

THIRTY-THIRD ANNUAL MEETING, AUGUST 28-SEPTEMBER 4, 2005—REPORT TABLED

Hon. Lise Bacon: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canada-France Inter-Parliamentary Association on its 33rd annual meeting, held in Vancouver, Victoria and Nanaimo, British Columbia, from August 28 to September 4, 2005.

[English]

CANADA-UNITED STATES RELATIONS

MAINE—PROPOSED LIQUEFIED NATURAL GAS TERMINALS—PRESENTATION OF PETITION

Hon. Michael A. Meighen: Honourable senators, I have the honour to present petitions from 133 residents of New Brunswick and elsewhere in Canada, the U.S. and the U.K. asking our government to refuse the right of passage to LNG tankers through Head Harbour Passage.

QUESTION PERIOD

INDUSTRY

INVESTMENT CANADA—NOTICE OF NET BENEFIT REGARDING SALE OF TERASEN GAS TO KINDER MORGAN

Hon. Pat Carney: Honourable senators, my question is for the Leader of the Government in the Senate. Yesterday, I asked the leader what benefits for the public were negotiated by Industry Canada when it approved the purchase of Terasen Gas by the Texas energy giant Kinder Morgan. The leader advised the chamber that:

...section 36 of the Investment Canada Act precludes the minister or any government official from disclosing any information that has been obtained through the administration of that act.

The minister's written answer to me indicates that there are exceptions to the confidentiality provisions of the ICA. The written answer states that what can be made public includes information contained in any written undertaking given to Her Majesty in right of Canada relating to an investment that the minister is satisfied or is deemed to be satisfied is likely to be of net benefit to Canada. That is exactly what I want to know. What undertakings were deemed of net benefit to Canada?

Is the minister telling us that the undertakings given to Her Majesty were oral undertakings? If they are still secret, were they oral? According to the letter he provided me, information contained in any written undertaking can be made public.

Hon. Jack Austin (Leader of the Government): Honourable senators, in answering the honourable senator's question yesterday, I did provide information with respect to the undertakings made by Kinder Morgan Inc. with respect to the acquisition of Terasen Gas. I mentioned capital investments and other items that would assure net benefits to Canada. I believe that a satisfactory answer was provided to the honourable senator about the agreement of Kinder Morgan.

Senator Carney: May I remind the honourable leader that yesterday he specifically said:

...section 36 of the Investment Canada Act precludes the minister or any government official from disclosing any information that has been obtained through the administration of that act.

While we are grateful for some of the information provided, we would like to know the rest of the information. For example, Terasen Waterworks, a subsidiary of Terasen Gas, owns and operates municipal waterworks in Canada, including the municipalities of Calgary and Kelowna. Canadians are not comfortable with foreign ownership of our water systems, so I would like to know whether Industry Canada, when it undertook the review, asked Terasen Gas to divest itself of the ownership of municipal water systems.

Senator Austin: Honourable senators, the disclosure I made yesterday included the phrase "with the consent of the parties," and that was the nature of the disclosure. As for the balance, the government has disclosed that which was consented to, and I have no other information I can provide. I have quoted the section of the Investment Canada Act that provides the barrier to disclosure.

I am most curious as to why the honourable senator is so concerned with this particular foreign investment. As I pointed out yesterday, the government of which she was a member took a significant departure from the government of Mr. Trudeau and introduced this act. Then Prime Minister Brian Mulroney said that Canada was open for business. His government actively invited foreign investment in Canada and said that it was good.

It is of further interest to me to note, for example, an editorial in today's *Vancouver Sun* entitled "Critics of Terasen sale resort to fear-mongering and ignore the facts." In brief, the article says that the attempt to block this deal was not in the public interest.

Opposition to the deal gathers momentum only because its critics are misrepresenting what Terasen does and are channelling the anti-American, anti-business and anti-globalization attitudes of the ill-informed into an attack on a private deal between two private companies.

The article also states:

Of course, Terasen doesn't own any energy resources. It doesn't produce any petroleum products. It doesn't explore for oil and gas. It does no refining. It has no interests in oil or gas fields.

It simply buys gas and distributes it to 875,000 customers in B.C. Moreover, it is not allowed to make a profit reselling the gas. It can only charge for delivery and that rate is regulated by the BCUC. In fact, even the rate of return it may earn on its gas utility business is set by the regulator...

The article concluded:

...the outcome of this contest is assured. Canadians will be the winners.

Honourable senators, Senator Carney says that Canadians believe this and Canadians believe that. I have pointed out that the B.C. Utilities Commission heard countless witnesses and rendered over 50 pages of assessment supporting this transaction. It was also not dissented from by the province of British Columbia or the province of Alberta. It is fascinating to me that the honourable senator continues to pursue this issue. It would be interesting to know what the merits of her presentation might be.

Senator Carney: Honourable senators, the merit of my presentation is that the Investment Canada Act requires a review of foreign acquisitions of sensitive industries in Canada. They include the production of uranium and owning an interest in a uranium-producing property in Canada, providing any financial service, providing transportation services, including the transportation of oil or gas through pipelines, and cultural business. That was the gist of the legislation that the Conservative Government of Canada brought in when it said that Canada was open for business. However, it also said that it wanted a review of sensitive industries to determine whether there would be a net benefit to Canada. I have been asking the leader to make public the net benefits in this case.

INVESTMENT CANADA—NOTICE OF NET BENEFIT REGARDING SALE OF WESTCOAST ENERGY TO DUKE ENERGY

Hon. Pat Carney: In 2001, Duke Energy, one of North America's largest transmission companies, purchased Westcoast Energy for \$8.5 billion, the largest foreign transaction that year. Purchases of transmission systems are subject to review under the Investment Canada Act, which is my rationale for asking the question. Four years after the sale, can the minister tell us what net benefits were negotiated for Canadians in the sale of Westcoast Energy? Eight thousand British Columbians and other Canadians wrote the British Columbia Utilities Commission about their concern over these transactions. Contrary to what the leader said earlier, there were no public hearings held by the B.C. Utilities Commission, although we asked for them.

The honourable leader asked about the justification for my question. It can be found in the words of the legislation brought forth by a Conservative government — the Investment Canada Act — which call for a review and analysis of net benefits. We have a written undertaking that these benefits can be disclosed. Therefore, what were the benefits?

• (1400)

Hon. Jack Austin (Leader of the Government): Honourable senators, I shall simply repeat that the net benefits have been disclosed in summary form and the act provides —

Senator Carney: I asked about Westcoast.

Senator Austin: The statements are on the record. I do not have to speak for a transaction that took place in 2001.

ROYAL CANADIAN MOUNTED POLICE

AUDITOR GENERAL'S REPORT— CONTRACT POLICING AGREEMENTS— HUMAN RESOURCE SHORTAGES

Hon. Pierre Claude Nolin: Honourable senators, the Auditor General's report released yesterday looked into whether the RCMP meets its contractual obligations for policing services in provinces, territories and municipalities. The report concluded that, while it fulfils its responsibilities under these contracts, the RCMP often does not have the capacity to deal with staff shortages caused by such routine matters as illness and parental leave. There are also gaps in terms of proper training qualifications and certification of officers. For example, newlygraduated cadets do not always receive six months of training in the field with a senior officer, as is expected.

Could the Leader of the Government in the Senate tell us how the federal government will ensure that the RCMP has the ability to respond to human resources shortages? We are aware of the response of the RCMP to the Auditor General that they will do their utmost to correct the problem, but I want a more specific answer from the minister.

Hon. Jack Austin (Leader of the Government): Honourable senators, the only answer I can give is that the government will do its utmost to support the RCMP.

Senator Nolin: Honourable senators, the Auditor General also reported on RCMP contract policing in Aboriginal communities. Public Safety and Emergency Preparedness Canada, or PSEPC, which is responsible for negotiating these agreements, does not fully monitor how they are implemented. An example used in the report is that peace officers are required to spend at least 80 per cent of their time on the reserve to which they are assigned. However, PSEPC does not have a system to track the amount of time an officer spends in the community and, therefore, cannot tell band councils, with which they have agreements, if the requirement is being carried out. How can the department provide Aboriginal communities with the level of policing they need and expect, if it cannot determine whether the agreements are being carried out?

Senator Austin: Honourable senators, that is a good question based on the findings of the Auditor General. The government accepts the findings and conclusions of the Auditor General with respect to policing in Aboriginal communities. It is clear that these issues need to be given a great deal more attention and that more work needs to be done in collaboration with Aboriginal communities. It is a deficiency with which the government intends to deal.

NATIONAL DEFENCE

PROPOSED EQUIPMENT EXPENDITURES

Hon. J. Michael Forrestall: Honourable senators, my question of the minister is with respect to equipment replacement.

Prior to the last election, the government announced expenditures of \$7.7 billion in promised capital projects for defence, of which about \$5.7 billion had already been announced but not activated.

Senator Mercer: We're doing that right now.

Senator Forrestall: Are you ever!

Senator Mercer: Promises made, promises kept!

Senator Forrestall: Are you listening, leader?

This was announced but never put in place. So much for your words.

The Hon. the Speaker: Honourable senators, order, please. Senator Forrestall has the floor.

Senator Forrestall: In the last four months, a \$12-billion to \$13-billion expenditure has been talked about. What will you say about that? Will you spend it?

A \$4.6-billion purchase submission has gone out to replace the aging Hercules. The immediate replacement of fixed-wing search and rescue equipment was a top budget priority announced at CFB Greenwood, being the Hercules and the Buffalo. That was promised in the election barnstorming.

Mr. Minister, why was the second aspect of the original plan to replace fixed-wing aircraft dropped?

Hon. Jack Austin (Leader of the Government): Honourable senators, I answered that question yesterday. I said that, initially, the Chief of the Defence Staff recommended to the government the acquisition of transport aircraft, fixed-wing aircraft, a helicopter package and some electronic equipment for existing aircraft. However, it became clear that the acquisition of the military's top priority, that is, the transport aircraft, would slow down if the entire package were dealt with at one time. I could quote General Hillier, but I am sure that Senator Forrestall is familiar with all of this. Therefore, it was decided to proceed to replace the Hercules CC aircraft.

I misunderstood Senator Forrestall's last question yesterday. He asked me about the age of the JJ series and I answered with regard to the age of the CC series, which shows that he is much better at these identification numbers than I.

However, it is clear that, instead of proceeding with a series of equal priorities, which would be a slower process, the military desired to go ahead with the acquisition of transport equipment as the first priority, which is how we are proceeding.

Senator Forrestall: Honourable senators, it is of vital concern to Canadians that search and rescue have the tools it needs to do the job. We have replaced the Sea King helicopter with the EH-101, which has the endurance and power to a first-class job.

Incidentally, Canada has identified a problem in the tail rotary assembly of the EH-101. It is interesting to note that in other places around the world where EH-101s are being deployed they are still flying full missions with no restrictions. One wonders why there are restrictions here.

My question has to do with the urgency of search and rescue capability for this country. When can we expect a decision in that respect? A very important part of search and rescue is the capacity of fixed-wing aircraft to drop fuel and medical and other supplies where needed. Will we get it during the early stages of the campaign?

(1410)

Senator Austin: Honourable senators, if it were up to me alone I would be delighted to announce the answer here and now. However, I am in a position simply to say that I will submit Senator Forrestall's representations to the Minister of National Defence and hope to have an answer before the election, which I expect will take place in April.

UNITED NATIONS

VOTING PATTERN ON MIDDLE EAST ISSUES

Hon. Marcel Prud'homme: My question is with respect to foreign affairs.

It is no secret to anyone that my great master was the Honourable Prime Minister Trudeau. He taught me how to be a proud Canadian and how to be consistent in our foreign policy. He used me for that purpose, and I was a willing volunteer.

On Thursday, September 25, 2003, I asked the Honourable Senator Austin a question. On Thursday, December 2, 2004, I again asked a similar question. Today, I shall ask the government leader a similar question.

Who are our friends; with whom do we usually vote at the United Nations? During our voting at the United Nations in November on multiple resolutions before the committee on action pertaining to Middle East, I realized that Canada has new allies. As I said twice before, to the embarrassment of many, Canada voted with the Federated States of Micronesia, Marshall Islands, Nauru, Palau, Tuvalu, United States, and Israel.

The United States of America is my friend and neighbour. Last Monday, when I introduced the ambassador of the United States to the Muslim community, he was applauded. I asked them to applaud him, and our friend and neighbour was applauded very widely.

That said, honourable senators, I am very concerned. All my life I have been taught, and I mentioned this in 2003 and in 2004, that in a situation such as I mentioned, it is supposed to remain an official secret. Under the Official Secrets Act, you are not supposed to say that.

In case there is doubt, you vote in good company. This time, good company abstained from voting. Everyone abstained. Canada is the only country that put its neck out with these great new allies of Marshall Islands, Nauru, Palau, Tuvalu and Micronesia.

Why were we voting in that manner on Monday at the United Nations? Are there any developments I am unaware of, so I can visit these new allies of Canada and ask them what is going on?

Hon. Jack Austin (Leader of the Government): Honourable senators, while I would not want to cast different categories of membership in the United Nations, according to its charter, all members of the United Nations are equal and are entitled to play an equal role in its affairs — although, that is not always the case in practice.

Our vote with respect to the Middle East is based on an attempt to be constructive in dealing with Middle Eastern issues. We consistently try in our policy on these issues to reduce the number of resolutions, many of which we find redundant and outdated. We find they lack fairness and balance, so we try to encourage a more innovative approach to drafting these resolutions than has been the case in the past.

Canada seeks to have these resolutions based on a pragmatic and reality-driven formula, which allows the parties to enhance the possibility of their dialogue.

Senator Prud'homme: My supplementary question is with respect to finding out whether it is true that the real Minister of Foreign Affairs pertaining to the Middle East, who is vetting every word of every resolution, is not the Minister of Foreign Affairs, Mr. Pierre Pettigrew, but the honourable member from Mont Royal, who is responsible in cabinet for vetting every word, comma and paragraph of anything pertaining to the Middle East. If that is the case, it is disturbing to know that the Minister of Foreign Affairs has been eliminated.

As my successor, I can talk roughly to him. I have not shared this with him yet, but I will do so after stating it publicly.

I see an honourable senator getting nervous in the back. He can ask a supplementary. Before he does, he should learn that one must be 30 years old to sit in the Senate, not 21.

Senator Austin: Honourable senators, it is no secret that resolutions in the United Nations with respect to the Palestine-Israel situation have been quite polemical and are designed for political positioning rather than based on the merits of issues. Unfortunately, that has been a long-standing history in the use of resolutions and their practice in the UN forums.

We follow a policy of offering both criticism and support of Palestinian and Israeli practices or their failures to live up to their obligations, and we are consistently strong in condemning acts of terrorism.

FOREIGN AFFAIRS

POLICY WITH RESPECT TO ISRAEL

Hon. Yoine Goldstein: Honourable senators, let me first correct a misapprehension. I did not suggest to the honourable senator on my extreme left that I did not know that our Constitution requires a senator to be at least 30 years of age.

What I said was that, since we are older than 21, we are certainly capable, it seems to me, of being able to withstand criticism.

That having been said, however, I should also point out that I assumed that Minister Pettigrew would be particularly disturbed and upset if he found out that the honourable senator to my extreme left considers that he, Minister Pettigrew, has nothing to do with the foreign policy for which he is responsible but that in fact foreign policy is dictated by the Minister of Justice. I dare say the Minister of Justice would not be of that view, nor would Honourable Minister Pettigrew.

Does the Government of Canada follow the statements of the Right Honourable Paul Martin who indicated on a number of occasions that Israel is Canada's friend and ally?

Senator Prud'homme: Oh, oh.

Senator Goldstein: The Prime Minister said "friend and ally." I did not interfere when Senator Prud'homme was asking his question; I would ask him to please not interfere with me.

As I was saying, does the Government of Canada follow the policy enunciated by the Honourable Prime Minister that Israel is a friend and ally of Canada? Does the Government of Canada accept the assertion by the Honourable Prime Minister that Canada and Israel share common values; democratic government, an independent legislative process, an independent judiciary, gender equality and a free press? That is what the Prime Minister said. Is that the policy that is followed by us in the United Nations and elsewhere?

• (1420)

Hon. Jack Austin (Leader of the Government): Honourable senators, what the Prime Minister has said about Canada's relationship with Israel or with the Palestinians is the policy of Canada.

THE ENVIRONMENT

NEWFOUNDLAND AND LABRADOR— REINSTATEMENT OF GANDER WEATHER OFFICE

Hon. Ethel Cochrane: Honourable senators, my question is for the Leader of the Government in the Senate. Two years ago the federal government moved regional forecasting in Newfoundland and Labrador to Halifax, Nova Scotia. Since then there have been many cases of dangerously inaccurate forecasting in my province. I have heard reports of problems with inadequate storm warning updates, and even simultaneously issued forecasts from Montreal and Halifax that were radically different.

Next week, a petition will be presented in Ottawa asking the federal government to reinstate weather forecasting at the Gander weather office. The petition contains the names of 125,000 people, who all share the concern that Newfoundland and Labrador has been poorly served by this decision.

My question for the Leader of the Government in the Senate is this: Will the federal government heed the wishes of the people of my province and fully restore the Gander weather office?

Hon. Jack Austin (Leader of the Government): Honourable senators, the question reminds me of representations that I receive

from British Columbia coastal communities, in particular with respect to the weather forecasting that is done by satellite regarding Pacific weather movements and their impact.

Honourable senators, I can answer the question by saying that I will send Senator Cochrane's representation to the minister, but it is a subject on which perhaps we could ask the Standing Senate Committee on Energy, the Environment and Natural Resources to hear witnesses, to determine if weather forecasting has indeed deteriorated in its quality since the change in technology.

Senator Cochrane: Honourable senators may be aware that Newfoundland and Labrador has not had representation in cabinet for many weeks on this particular issue, due to the illness of the former Minister of Natural Resources, John Efford. The reinstatement of the Gander weather office is one of several important issues facing the province that have not been dealt with as a result. This issue has been going on for a while.

The people of the province now are particularly concerned, knowing full well that winter is coming upon us and the serious detriment weather forecasting could have, especially on our people who live close to the water, not just the fishermen but all these people. The Globe and Mail reported earlier this month that due to Mr. Efford's absence the Prime Minister said he would take an active role — and this is the Prime Minister — in advancing the province's concerns.

Could the leader then make inquiries and tell us what action the Prime Minister has taken over the last several weeks with respect to this Gander weather office?

Senator Austin: Honourable senators, the Prime Minister has said that he would represent in cabinet the interests of Newfoundland and Labrador. Again, I cannot tell you whether this particular issue that has now been brought to us by Senator Cochrane has been drawn directly to the Prime Minister's attention. I will draw it to his attention and ask him for his guidance.

DELAYED ANSWER TO ORAL QUESTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting a delayed answer to an oral question raised in the Senate on November 3 by Senator Forrestall, regarding the alleged bust of a Salafist Group for Call and Combat in Toronto.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

ALLEGED EXPOSURE OF TERRORIST CELL

(Response to question raised by Hon. J. Michael Forrestall on November 3, 2005)

On November 3, 2005, Stewart Bell, a reporter for the National Post, wrote an article quoting a senior CSIS counter terrorism official who told a closed-door national security workshop in Toronto during the week of October 31 to November 2, 2005 that CSIS had dismantled a suspected terrorist cell in 2004.

The article stated that the cell consisted of four Algerian refugee claimants who had lived in Canada for as long as six years and were alleged to be members of a radical Islamic terror faction called the Salafist Group for Call and Combat (GSPC), and that the leader of this cell had received explosives training at an Al Qaeda training camp in eastern Afghanistan.

Mr. Bell wrote that the senior CSIS counter terrorism official told the closed-door "National Security Workshop 2005", a federal initiative that brings together security officials and representatives of Ontario industries involved in critical infrastructure, that three of the four individuals were deported during the summer of 2005, as they were inadmissible to Canada under the Immigration and Refugee Protection Act, and the fourth left voluntarily in March 2004, after being questioned by CSIS.

CSIS highlighted the case in its presentation as being a prime example of inter-agency co-operation. The presentation was unclassified.

The Government has informed the public that there is currently no imminent threat to Canada or Canadians. Should such a threat emerge, the Government will take appropriate action. It should be noted that the Government added the GSPC to Canada's list of banned terrorist entities in November 2002. One of the consequences of being listed is that the GSPC's property can be the subject of seizure/restraint and/or forfeiture.

It should also be noted that for privacy reasons, we do not discuss specific cases.

As CSIS noted during its presentation, its investigation is ongoing. Consequently, it would be inappropriate to provide further information.

QUESTION OF PRIVILEGE

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators yesterday, Tuesday, November 22, Senator Spivak rose on a question of privilege to complain about the answer she had received to a series of written questions she had placed on the Order Paper. Under our rules and practices senators are entitled to ask written questions soliciting information from the government on any matter that comes within its jurisdiction or administrative authority. In this particular case, Senator Spivak had posed a number of questions regarding the boundaries of Gatineau Park, which is controlled and managed by the National Capital Commission. I will refer to it as the NCC.

[Translation]

According to Senator Spivak, the answers provided by the NCC through Canadian Heritage were contradictory. Her complaint is based on the fact that the responses that she received were different in material respects from those made to identical questions asked by a member of the other place. Senator Spivak explained that in three specific instances the information given to

her about the boundaries of Gatineau Park was inconsistent with the answers provided elsewhere.

[English]

The failure to prepare complete answers that are accurate and consistent is, in the senator's view, a serious breach of privilege since it deprives parliamentarians of the information they need to do their job properly. To prove her point, Senator Spivak mentioned the work that she is doing on a draft bill relating to Gatineau Park for which solid data on its boundaries is important.

[Translation]

Following the Senator's remarks, I indicated that I would seek to provide a ruling as soon as I was able on the question of privilege, to determine if a prima facie case had been established. I have considered the matter carefully and am prepared to make my ruling now.

[English]

Senate rule 43 outlines the criteria that I must use to determine a question of privilege prima facie. I am satisfied that the matter has been raised at the earliest opportunity, but I am less clear about the remaining criteria. It is not obvious to me how an inconsistent response provided by the NCC through Canadian Heritage constitutes a matter that directly concerns the privileges of the Senate, a committee or a senator.

While the senator has made a good case that the information received from the NCC is not consistent with the information it has provided elsewhere, I do not see how this, in itself, is a matter of privilege or contempt. As the senator herself stated in the opening of her intervention, parliamentarians often complain that answers from the government are slow or incomplete. None of these instances would normally give rise to a question of privilege.

In addition, no evidence was presented to suggest that these errors or inconsistencies were deliberate. I am also uncertain about whether it is the information that was provided to the senator or to the other parliamentarians that is inaccurate.

Honourable senators, may I have order while I go through this ruling?

Had a compelling case been made that the NCC had sought to mislead the senator deliberately, my ruling would have been different. As it happens, however, with respect to this case, other means are readily available to seek some clarification about the NCC information. For example, the matter could be taken up again by another written question, or perhaps by hearing officials from the NCC at a Senate committee. These alternative approaches would be in keeping with the traditional oversight function of the Senate and would be more suitable than having the matter considered as contempt.

[Translation]

Having reviewed the complaint based on the criteria stipulated in rule 43, I am unable to support the contention that a prima facie question of privilege has been established. (1430)

[English]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

MOTION TO EXTEND WEDNESDAY SITTING AND AUTHORIZE COMMITTEES TO MEET DURING THE SITTING ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of November 22, 2005, moved:

That, notwithstanding the Order of the Senate of November 2, 2004, when the Senate sits on Wednesday, November 23, 2005, it continue its proceedings beyond 4 p.m. and follow the normal adjournment procedure according to rule 6(1); and

That committees of the Senate scheduled to meet on Wednesday, November 23, 2005, be authorized to sit even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Hon. Madeleine Plamondon: Must I grant permission on that?

The Hon. the Speaker: As a matter of information, this is a motion of which notice was given yesterday, and it is now before the Senate for debate and determination. Does the honourable senator wish to speak to that motion?

Senator Plamondon: There could be a vote?

[Translation]

Hon. Marcel Prud'homme: Honourable senators, it is debatable and then votable.

Senator Plamondon: Honourable senators, it is debatable and then votable, but we cannot put the question immediately. All right.

[English]

Senator Prud'homme: You may have heard me explain that it was both votable and debatable.

I will be very blunt: I strongly object to the comments made by some senators last evening to the effect that I could manipulate Senator Plamondon and say no to certain permission being asked. I am not prepared for it but I am angry enough.

Senator Plamondon is not a person one can manipulate. There is only one person I have controlled all my life, and that is me: my vote, my decision. It would be unkind to put on record the names of those who came to me last evening and said that I was manipulating the honourable senator. I think it is my duty as an elder, as an older parliamentarian, to explain plainly what this is all about. I just did, and you overheard me: "No, no, it is debatable and votable. You cannot say no today."

I think it is the duty of each of us not to dictate, and never have I done that. When Senator Cools was sitting in front of me and, according to some, she was uncontrollable. I was constantly approached to speak to her. I would look at her and say "Anne," and some of the time she would listen. One day she put me in my place by saying, "Do not 'Anne' me today."

Senator Plamondon — and I say this in English out of anger, but I should say it only in French —

[Translation]

She has a reputation in Quebec of thinking for herself. She is not a woman one can order around. There will always be, in the coming days and months, people like Ms. Plamondon, Marcel Prud'homme and several others. But in the difficult days, months and years to come for Quebec, you English-speakers will not have to deal with this situation. We will need people who can think for themselves to talk to all the other French-speaking Quebec Canadians.

[English]

Not the West Island people. I know how to vote. I represent the majority of French Canadians.

I take strong objection. I hope the honourable senator rises to say that she has no orders to receive from Senator Prud'homme. I have shared my opinions with her as to the rules, to the best of my ability because I am still learning every day from the chair, the Clerk, and Mr. O'Brien. I do not think it is fair to ask someone else to do what I can do alone. If I wanted to say "no" yesterday, I would have said "no" to you, Senator Austin, and to you, Senator Rompkey. I can take my responsibility. I will not be blackmailed by comments such as: "If we do not do this, we will sit on Saturday." Well, that is fine. The only thing that makes me unhappy is not to be attending my sister at the moment, who needs me. Between my duty to the Senate and my duty as a brother, my duty to the Senate will take over.

I resent this with a passion, so do not do it ever again or you may never again hear me speak English in this institution. I may sit differently as an independent, and you may not be happy. I am fed up with these stupid rumours of manipulation. Maybe some of you are experts in manipulating people, but you will not manipulate me and you will not manipulate Senator Plamondon. She is a big girl. She knows what she wants to do.

On the motion, I totally oppose it. I totally oppose that the Senate sit while committees are sitting. Why? There are important pieces of legislation scheduled to be discussed here this afternoon and my duty is to be at the Foreign Affairs Committee. What do I do? While I am at the Foreign Affairs Committee, perhaps someone will pass a bill I do not agree with.

I have always said that our duty is to the Senate first. I am sorry that some people do not know how to arrange the affairs of the Senate. The Senate is not the House of Commons. The Senate is the Senate, regardless of the events in the House of Commons.

Therefore I will ask for a vote on this issue. It takes only two senators to ask for a vote. It is debatable. I have debated it. I will say why I object. We came to terms with each other that, on Wednesdays, in order for committees to sit, we would adjourn at 4:00 p.m. That was the best, most intelligent and civilized way to deal with the Senate.

Now we want to bypass that agreement because there is some event coming next Monday or Friday night. I object to that. The motion is debatable. I have just debated it. If no one else debates it, Your Honour will put the question and I will rise. One other senator might stand; perhaps it will be Senator Plamondon. It takes only two senators to stand and ask for a registered vote. I will ask for a registered vote and, as a democrat, I will bow to the wishes of the majority.

[Translation]

Hon. Jean Lapointe: Honourable senators, the question I asked Senator Prud'homme was why he did not vote against the motion.

[English]

The Hon. the Speaker: Would the honorable senator take a question?

[Translation]

Senator Lapointe: I was quite simply asking for some information and I got my answer: it is debatable and then votable. So, first, it can be debated. Then, I would like the Honourable Senator Prud'homme to share his views with us. And I believe that, to some extent, he is absolutely correct.

Senator Plamondon: Honourable senators, I sit on only one committee, the one on banking. This is the committee that interests me, and I never miss a meeting.

I also have a perfect attendance record in the Senate chamber. I would not want to be absent from either place. I am opposed to any arrangement that would keep me from either the Standing Senate Committee on Banking, Trade and Commerce or the Senate.

By the way, there are a few things I want to say about attendance in the Senate. When we are sworn in as senators, we are told that our first duty is to the Senate.

• (1440)

I would not want to be whip, not for all the money in the world, because of absenteeism. Today, due to the circumstances, there are fewer members absent but, all too often, we can see the whip looking worried, looking for his members. We should all make our duty to be present in the Senate chamber. Committees should never sit at the same time as the Senate. Whether during statements by senators, notices of motions or speeches, I always learn something new by listening carefully to each person who rises.

I do not think that this sort of item should even be put on the order, because it forces us to make a choice that is inconsistent with the oath we have taken.

Senator Prud'homme: Am I being manipulative, senator?

Senator Plamondon: Those who know me know that I get down on my knees before no one but God and that my mother always had the words "It is better to die standing than to live on your knees" posted above the phone.

[English]

The Hon. the Speaker: Since no other senator is rising, I will ask if honourable senators are ready for the question.

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion will please say "yea".

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay".

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker: With two senators rising, we will call in the senators. Is there agreement on the bell? It will be a fifteen minute bell, senators, so the vote will be held at five to three.

(1455)

Motion carried on the following division:

YEAS THE HONOURABLE SENATORS

Atkins Joyal Austin Kenny Bacon Keon Baker Kinsella Banks Lavigne Bryden LeBreton Callbeck Losier-Cool Campbell Lovelace Nicholas Carstairs Maheu Chaput Mahovlich Christensen Massicotte Cochrane McCoy Comeau Meighen Cook Mercer Corbin Milne Cordy Mitchell Cowan Moore Day Munson De Bané Nolin Di Nino Pépin

Dyck
Eggleton
Eyton
Fairbairn
Forrestall
Fraser
Furey
Gill
Grafstein
Harb

Hubley

Peterson Phalen Poulin Poy Ringuette Robichaud Rompkey Stollery Stratton Tkachuk Zimmer—62

NAYS THE HONOURABLE SENATORS

Plamondon Prud'homme St. Germain—3

ABSTENTIONS THE HONOURABLE SENATORS

Andreychuk Angus Champagne

Lapointe
Trenholme Counsell—5

(1500)

FOOD AND DRUGS ACT

BILL TO AMEND—THIRD READING

Hon. Terry M. Mercer moved third reading of Bill C-28, to amend the Food and Drugs Act.

The Hon. the Speaker: Honourable senators, are you ready for the question?

Hon. Senators: Question!

Motion agreed to and bill read third time and passed.

WAGE EARNER PROTECTION PROGRAM BILL

SECOND READING

Hon. Bill Rompkey (Deputy Leader of the Government) moved second reading of Bill C-55, to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments to other Acts.

He said: Honourable senators, I rise to speak to Bill C-55, to establish the Wage Earner Protection Program Act, to amend both the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act, and to make consequential amendments to other acts.

[Translation]

The bill proposes an ambitious, comprehensive and balanced reform of the insolvency system in Canada. It will have a significant impact and positive effects on both the economy and

individuals. We believe that this bill enjoys relatively widespread support, and I urge all honourable senators to support it so as to ensure it speedy passage.

[English]

The bill is the product of significant consultation with stakeholders, and many of its provisions were drawn from the report prepared by my honourable colleagues in this chamber entitled *Debtors and Creditors: Sharing the Burden*, a review of the Bankruptcy and Insolvency Act and the Companies Creditors Arrangement Act, released in November 2003.

Since the introduction of the bill, stakeholders from a broad spectrum of interests have studied its implications. The reaction has been positive. Of course there have been suggestions for further improvements. I think there will be a number of senators who will say that this is not a perfect bill. However, it is clear that the bill has considerable support and will impact positively the thousands of Canadians who rely on the insolvency system to protect their interests in situations of financial distress.

I should like to highlight a few of the reforms proposed in Bill C-55. Most significantly, the bill proposes changes to ensure that workers are better protected in the case of insolvency of their employer. It proposes the creation of the wage earner protection program, an unlimited super-priority for unpaid wages that will combine to protect workers without creating undue risks for creditors or enticing strategic behaviour that would have been unfair to taxpayers. The wage earner protection program will be a safety net, paying up to \$3,000 of lost wages owed to workers whose employer goes bankrupt or is put into receivership. This type of program is not radical or new. Many countries already have a similar program to protect their workers, countries such as the United Kingdom and Australia, and it is time now for Canada to have one, too.

The government expects to recover up to half of the money paid out by the program by acting as a creditor to the employer. The government will assume workers' claims against their employers' estate, including their right to use the new, limited super-priority for unpaid wages. As suggested in the Senate report, this limited super-priority is capped at \$3,000 and will only apply to current assets in order to mitigate potential impact on credit.

The proposed reforms will result in better protection to pensions, an issue of critical importance to many Canadians. In a bankruptcy, a receivership, a proposal or a CCAA filing, regular contributions that an employer should have made or that were deducted from an employees' paycheque will be required to be paid into the pension plan for the benefit of workers before most other creditors are paid.

The status of collective agreements during a corporate restructuring is also of great importance to workers. This reform will allow employers and unions to renegotiate collective agreements under the relevant labour legislation, but the changes are explicit. If there is no agreement between the employer and the union, the existing collective agreement remains in force. A court may not unilaterally change a collective agreement.

In addition to better protecting workers, this bill also represents a substantial overhaul of our insolvency laws. One of the key objectives of this bill is to foster the use of reorganization as an alternative to bankruptcy. Debt reorganization in most cases is a better alternative than a bankruptcy. It helps debtors avoid the stigma of bankruptcy, provides better return for creditors, and, in the case of businesses, it protects jobs.

To meet this objective, the CCAA will be substantially rewritten. The reforms will ensure greater transparency in the process, allow parties to better defend their interests, codify rules for important restructuring elements such as interim financing, the termination of assignment of contracts, the sale of assets outside the ordinary course of business, governments' arrangement of the debtor company, including the ability to remove directors, and the application of regulatory measures. The bill will provide guidance and certainty, while preserving the flexibility that has made the CCAA such a successful restructuring vehicle. Most restructuring of large insolvency companies is carried out under the Companies' Creditors Arrangement Act. Bill C-55 is a major step forward in ensuring that the CCAA reflects the needs of the marketplace and provides the necessary degree of predictability to all parties involved. It is useful to note that the CCAA has not been brought up to date since 1930.

• (1510)

Businesses and individuals can also restructure their debts by making a proposal under the Bankruptcy and Insolvency Act. A number of changes included in Bill C-55 will make the proposal process more effective and attractive to debtors. On the corporate side, many improvements made to the CCAA are replicated in the BIA to ensure consistency. For individuals, the changes are designed to make it easier to use consumer proposals as an effective means to regain financial stability.

Honourable senators, Bill C-55 will also better protect individual Canadians who face bankruptcy. For example, the bill will exempt RRSPs from seizure in a bankruptcy, subject to certain conditions. Until now, this protection has not been offered to RRSPs under the Bankruptcy and Insolvency Act. Protection for RRSPs varies based on provincial rules, resulting in unequal protection across the country. Bill C-55 will correct this disparity.

Student loan debt will be eligible for discharge after seven years and, in the cases of undue hardship, the bankrupt may apply to the court to obtain the discharge after five years. The bill also prohibits the use of ipso facto clauses in contracts whereby a debtor faces automatic termination of an existing contract for the sole reason that he or she is bankrupt.

At the same time, Bill C-55 contains a number of provisions that will prevent potential abuse of the insolvency system. New rules will make it more difficult to use bankruptcy as a means to avoid paying debts. Honest but unfortunate bankrupts will receive their discharge, but those who attempt to abuse the system will not.

On a technical note relating to the treatment of deemed trusts for taxes, the bill makes no changes to the underlying policy intent, despite the fact that in the case of a restructuring under the CCAA, sections of the act were repealed and substituted with renumbered versions due to the extensive reworking of the CCAA.

Honourable senators, Bill C-55 will greatly improve the administration of Canada's insolvency system through a number of changes affecting the role and duties of trustees, receivers and monitors. The role of the Office of the Superintendent of Bankruptcy Canada will also be clarified and will include maintenance of a central registry of CCAA cases. Bill C-55 will make certain that Canada's insolvency laws help to create an environment where there are safety nets for individuals in financial difficulty, where all parties are treated fairly and where workers are protected.

These rules will ensure that Canada remains an attractive place for investors and promotes entrepreneurship and innovation. I am confident that the measures proposed in this bill will have broad support among Canadians, and I urge all honourable senators to support this important legislation and its swift adoption.

Hon. Michael A. Meighen: Honourable senators, I am pleased to join the debate at second reading of Bill C-55. I thank Senator Rompkey for his remarks.

Honourable senators, the bill is almost 150 pages in length. Reduced to the bare essentials, the bill makes several changes to the laws governing bankruptcy and insolvency. It creates the wage earner protection program to ensure that employees of bankrupt entities receive their unpaid wages in a timely manner. It reduces to seven years from 10 years the period during which a student debt may not be discharged through bankruptcy.

Furthermore, the legislation ensures that locked-in RRSPs will no longer be part of the assets that can be taken in a bankruptcy and that providers of services such as utilities and car leases will no longer be able to discontinue those services.

Bill C-55 also begins the process of addressing a number of other critical issues. Among them are facilitating the restructuring of financially troubled companies, better protecting unpaid wages in insolvency situations, making the system fairer and preventing abuse, and improving administration.

It has been clear to all of us for some time that both the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act require significant amendment. In this context, I note that Bill C-55 was preceded by no less than three significant studies.

[Translation]

First, the amendments made in 1997 to the Bankruptcy and Insolvency Act allowed for a review by a parliamentary committee five years after the revised statute came into force. The Standing Senate Committee on Banking, Trade and Commerce concluded this in-depth review in November 2003 and formulated 53 recommendations in its report entitled *Debtors and Creditors Sharing the Burden*.

[English]

Second, consumer insolvency issues were examined by the Personal Insolvency Task Force established in 2000 by the Office of the Superintendent of Bankruptcy with membership from the principal stakeholder groups. This panel reported in August 2002.

Third, Industry Canada published its report on the operation and administration of the Bankruptcy and Insolvency Act and the Companies Creditors Arrangement Act in September 2002. Canada's main law governing bankruptcy is the Bankruptcy and Insolvency Act, which sets out rules to govern business and consumer bankruptcy and rules for proposals made to creditors by an insolvent firm or individual. As honourable senators are well aware, larger firms have the option of reorganizing under the Companies' Creditors Arrangement Act. Unhappily, though, numerous companies' individuals find themselves declaring bankruptcy every week in this country, with approximately 11,000 businesses and 100,000 individuals making use of the BIA on an annual basis.

I am pleased to note that the bill at least includes some of the recommendations of the Standing Senate Committee on Banking, Trade and Commerce such as the inclusion of income trusts, the ipso facto provision and protection for RRSPs. In the case of the definition of a "consumer bankruptcy," it raised the ceiling on bankruptcies to \$250,000 of net debt from \$75,000, going beyond the Senate recommendation to raise this to only \$100,000.

Honourable senators, numerous other parts of our committee report were either watered down or ignored. The committee called for a student loan to be eligible for discharge after five years, or sooner in case of undue hardship. This bill provides for a minimum of seven years for discharge, or five years in the case of undue hardship.

The committee called for Registered Education Savings Plans to be exempt from the list of assets that may be taken in a bankruptcy. Bill C-55 deals only with RRSPs.

The government has not acted on the Senate Banking Committee recommendation to prohibit reaffirmation agreements. In such cases a bankrupt who continues to make payments on a debt through error or inadvertence becomes responsible for the entire debt, in spite of bankruptcy.

Also missing from the bill is a recommendation to establish a list of federal exemptions outlining the assets that a bankrupt may keep in a bankruptcy. Under the Banking Committee's proposal, the bankrupt would have decided whether to apply the federal or the provincial exemption to his or her bankruptcy. Currently, the list of exemptions differs dramatically by province.

The government ignored as well the Banking Committee's recommendation prohibiting the use of non-purchase money security interests in personal exempt property. These concerned personal effects such as clothing and furniture taken as security for a loan.

Clearly, honourable senators, there is substantial room for improvement, either immediately or during our consideration of the bill, or for future changes to the underlying legislation.

[Translation]

This enactment proposes the creation of distinct legislation, the Wage Earner Program Protection Act, on wages owed by an employer who is bankrupt or subject to receivership. Wage earners will receive up to \$3,000 from the government, which will then act on behalf of the wage earners in order to recover the wages owed by the employer.

(1520)

[English]

The purpose of this program is to provide employees with a more timely and certain outcome than at present. Currently, three years may elapse before unpaid wages are collected. Since wages now rank behind other debts, an average of only 13 cents on the dollar is now recoverable. Bill C-55 also provides unpaid wages and vacation pay of up to \$2,000, with priority above secured creditors of current assets such as cash, inventories and accounts receivable. Currently, wages due to employees rank behind secured creditors.

When it comes to labour contracts, a debtor company can ask a court to order the collective agreement be opened for renegotiation if this renegotiation would facilitate a restructuring.

Turning now to consumer issues, individuals with more than \$200,000 in personal income tax debts, representing more than 75 per cent of their unsecured liabilities, will not be eligible for an automatic discharge from bankruptcy. This is meant to prevent high income earners from using bankruptcy to clear tax debts. Locked-in registered retirement savings plans will be exempt from seizure, as I noted earlier.

[Translation]

First-time bankrupts will be required to pay prescribed amounts of their surplus income for a period of nine months following the bankruptcy and perhaps even an additional year. Second-time bankrupts will have to make payments for a period of two years and perhaps even three. Trustees will no longer be able to recommend that the bankrupt pay an amount lower than that determined by the Superintendent of Bankruptcy, by directive. For a family of four in 2005, surplus income is defined as 50 per cent over and above a monthly limit of \$3,223.

[English]

A discharge, honourable senators, releases the bankrupt from any further obligation to creditors. Currently, first-time bankrupts may apply for automatic discharge after nine months, but others must seek a discharge through the courts and must even appear when there is no opposition to the discharge. This can lead to considerable delay in areas where the courts are backlogged. Bill C-55 will allow second-time bankrupts to be eligible for an automatic discharge 24 months after bankruptcy, provided they complete mandatory counselling and have made payments from their surplus income to creditors.

Finally, many contracts contain an ipso facto clause that allows one party to end the contract if the other party enters into insolvency proceedings. Bill C-55 extends the rules that currently limit the use of ipso facto clauses in cases of consumer proposals to include consumer bankruptcies. This means providers of services such as gas, telephone, electricity and car leases will not be able to cut services after bankruptcy.

Those are things I think that all honourable senators would applaud. However, in conclusion, let me turn briefly to what is perhaps the troubling aspect of this legislation. Simply put, honourable senators, once again the government has dropped the legislative ball and has put this chamber in a lose-lose situation. We lose as senators if Canada's wage earners do not receive, without further delay, the protection they deserve and which is provided for in this bill. We lose again if we simply close our eyes, hold our nose and pass this legislation without serious examination.

Frankly, I have serious reservations, as I know many senators have, about unceremoniously rushing any bill — let alone such a complex and voluminous one as this — through the parliamentary process. Its complexity deserves a meticulous review. Having said that, I think the portion dealing with the protection of wage earners is fully supportable, even if a couple of amendments might be appropriate.

This aspect of the bill is one that ought to be given the highest priority. To that end, I believe this bill should have been split into two parts — or should be split into two parts — so that the wage earner protection program could be passed without delay, and the complex, voluminous, detailed remainder could be studied thoroughly and conscientiously.

Although there are some deficiencies in the Wage Earner Protection Program, its passage is a priority for Canada's workforce. One cannot help but wonder why such an important and intricate piece of legislation was not made a priority and introduced earlier in this session. Indeed, the rush was such that even committee hearings in the other place were cut short.

Full and thorough committee hearings are a must, honourable senators, if we are to take our work in this place seriously — and more importantly, if others are to take our work seriously. Legislation such as this deserves thoughtful consideration and not a rubber stamp.

Let me refer to the views of The Insolvency Institute of Canada, a group of 125 leading insolvency professionals from across the country that have no particular axe to grind, other than to get much-needed reforms to existing insolvency legislation.

The IIC supports the move to better protect wage earners, believes that the proposed legislation is flawed in this and other areas and that, without amendments, the legislation will not achieve its intended objectives, and, indeed, could even be detrimental to businesses in general.

Also according to the IIC,

This legislation is poorly drafted, reflecting perhaps the haste with which it came about, and could make it more

difficult for small and medium businesses to borrow money and, in the view of unbiased experts, will lead to higher costs of capital.

Other organizations have expressed serious reservations in correspondence that many honourable senators may have received. They include the Canadian Bankers Association, which was not even heard in the other place, the Canadian Association of Insurance Premium Finance Companies and the Canadian Life and Health Insurance Association. The Canadian Bankers Association goes so far as to say:

There are numerous flaws in this bill and a number of provisions which will have a major negative impact on the economy of our country.

Even though the CBA is supportive, as am I, of the wage earner protection program, the association believes that the remainder of the bill could seriously harm Canada's economy.

As honourable senators can see, passing this bill without thorough study would be irresponsible. Not only is it far from a perfect bill, as mentioned by my colleague, Senator Rompkey, but many respected commentators feel that it represents a giant step backward, with the result that Canada will no longer meet global standards.

This crucial piece of legislation was passed in the other place without listening to Canadians. Someone needs to give Bill C-55 some sober second thought. Who better than us, honourable senators?

Hon. David Tkachuk: Honourable senators, I, too, wish to say a few words about Bill C-55. I was the deputy chair of the Standing Senate Committee on Banking, Trade and Commerce when we did a review of the bankruptcy laws. I think I was the only non-lawyer in the bunch. We will miss the chairman of that committee, Senator Richard Kroft, who did such an admirable job in leading us in the study of the bankruptcy laws. I think he left the Senate too early; he should have been here for this debate.

The laws governing bankruptcy are a key part of Canada's business framework legislation. Prior to agreeing to any changes to these laws, both Houses of Parliament owe it to both the business community and consumers to exercise due diligence as we carry out our work.

The government tells us that proposed amendments in Bill C-55 have four main objectives: to facilitate the restructuring of viable but financially troubled companies; to better protect unpaid wages in insolvency situations; to make the system fairer and prevent abuse; and to improve administration.

This bill has been rushed to us out of political concern for one of these objectives, that of better protecting unpaid wages. It has been rushed to us in spite of a host of other concerns that we have in several other parts of bill, and we have been asked to rubberstamp it and to rush it through committee. The Senate was not created as a rubber stamp. I hope we will not act in that fashion, but that we will find a way out of this situation and give the bill the study it deserves.

I would like to bring the Senate's attention to a letter that I received from the Canadian Life and Health Insurance Association, one of many letters that we have received on this bill.

Essentially, Bill C-55 will reduce creditor protection for millions of current and future holders of registered retirement savings plans and registered retirement income funds issued by life insurance companies.

(1530)

Mr. Gregory Traversy, president of the association, wrote the following to me, and I believe to other senators on the committee, on November 16:

Saskatchewan is unique among Canadian provinces in providing creditor protection for RRSPs and RRIFs issued by all financial institutions.

Regrettably, section 57 of Bill C-55, together with the proposed regulations which would set out the pre-conditions for the creditor protection in bankruptcy to apply, would eliminate Saskatchewan's current provincial credit protection for all RRSPs and RRIFs.

These protections would be replaced with a much reduced protection.

Furthermore, the proposed new scheme would retroactively reduce creditor protection for RRSPs and RRIF contracts that have been in place for years.

As a Saskatchewan senator, I find this a bit alarming. It is certainly not part of the spin on this bill, but it deserves to be explored further. It may not be only a Saskatchewan problem. This could be the case elsewhere in Canada where the proposed new law would eliminate long-standing creditor protection for life insurance, RSPs and RRIFs. The association makes a valid point calling for an amendment to fix this problem.

The insurance industry is not alone in arguing for the bill to be improved. In a brief to the Industry Committee of the other place, the Canadian Bar Association identified several areas in which the bill could be improved and then concluded by drawing to the committee's attention several things that were outlined in the report of our Standing Senate Committee on Banking, Trade and Commerce that did not make it to the final bill. They said that the Canadian Bar Association:

...recommends adoption of the Senate Committee recommendations relating to reaffirmation agreements, non-purchase money security interests in exempt property, recognition of cross-border personal insolvency discharges, and family law recommendations relating to addressing technical deficiencies in the 1997 support amendments to the BIA, exempting assets, preventing the bankruptcy trustee from intervening in matrimonial litigation, and creating a bankruptcy remedy against the fraudulent or malicious dissipation or concealment of property to defeat family property claims.

With these suggested modifications, the CBA Section believes the BIA and the CCAA will better reflect the intention behind the various provisions, ensure that they are effective, and will reduce any unintended consequences negatively affecting the rights is debtors and creditors.

We need to hear from the Canadian Bar Association, and we should have the opportunity to amend this bill to reflect their testimony if we believe that their position is more valid than that of the government. This is just one of many groups that have found problems with this bill.

The International Swaps and Derivatives Association has identified what they say is a technical flaw in the bill that needs to be amended as well. Although perhaps through an oversight, Canada's bankruptcy laws will no longer protect termination and netting.

I received a detailed email from the Canadian Bankers Association outlining what would happen if this bill passed. It says in part:

It is politically attractive, of course, to be able to say that workers have been given a priority status to the extent of \$2,000 per employee. But we urge you to achieve worker protection without adversely impacting the credit availability in the economy, i.e., use a Workers Protection Fund and not rely on super priorities.

Just how much liquidity could be expected to be taken out of the system if the super priorities were passed?

The amount of \$15 to \$20 million is being cited when discussing Bill C-55. But, that's just the amount that the government itself might have to pay.

The fact is that the reduction in credit availability would be exponentially higher.

The bankers go on to a detailed set of calculations to show how the credit available to a single large employee could be reduced by as much as \$1 billion.

Another group with concerns is the RESP Dealers Association of Canada. They sent a letter to the minister last month, which states:

With the parent as the subscriber, the opportunity to seize RESP proceeds during bankruptcy proceedings threatens the viability of parents making these important investments in the first place. RESPs have played a critical role for families wishing to establish a financial base for their children's higher learning. The plans have been shown to increase the probability of a child going on to post-secondary education.

Honourable senators, the Insolvency Institute of Canada and the Canadian Association of Insurance Premium Finance Companies have also found fault with the bill. It seems strange that almost the entire business sector that this bill is supposed to serve has serious concerns about it. Yet, here we sit, five days before an election call, asked to hold our noses and vote for an entire bill so the one part, the wage earner protection program, can be made law.

A better solution would be, as Senator Meighen has said, to split the bill into two parts as we have done in the past with other complex or controversial bills. Bill C-37A could create the wage earner protection fund, while Bill C-37B could form the basis of a new bill that could be reintroduced with improvements by a new government after the election.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I, too, wish to participate in the debate on this bill at second reading. I trust all honourable senators have read all 147 pages of the bill. From my first read of the bill, I believe there is a lot of credence in the suggestion of the Honourable Senator Meighen that this bill could very nicely be split. The first 13 pages deal with the matter that I think is urgent and should be moved on right away, that is, the wage earner protection program act. There are a couple of consequential elements in the back of the bill that would be attached to that as well.

I am distressed about the context in which we have this bill and the pressure on this chamber to deal with it as expeditiously as possible. There are three other bills in the same category, and we have those bills in committee.

Honourable senators, yesterday the government made the decision to stand this bill. They stood the bill. We have lost one whole day. That day is very important, and I will explain why. I think that the suggestion I have made is logical if this house is to fulfil its duty as a house of review. I think we can deal with the analysis of the first 13 pages, but I do not think that even all the collective wisdom in this place would be able to give the other 134 pages the serious study they deserve. If we attempt to proceed with such a study, rather than being a house of review we would become somewhat fraudulent.

I wish to underscore my support for the wage earner protection program section of the bill. My proposal to the government representatives on the other side is that we will support the bill in principle to get it to committee if the government gives us an indication that it will support or indeed introduce a motion, after we send the bill to committee, to send an instruction to the Banking Committee — as I believe it has been agreed that this is the committee to which the bill will be referred — to divide the bill along the lines indicated by myself, Senator Meighen and Senator Tkachuk.

I happen to know that many members of the Banking Committee, from all sides of the house, are of like mind. However, we are caught in a political and contextual box. In the public interest, it is important that we sometimes expedite legislation. However, we also have an obligation to look hard to determine if there is a way in which we can expedite legislation without undermining the whole banking system or the responsibility of this chamber to do a review of the legislation. I think there is a solution in what I am suggesting.

• (1540)

I will not take up any more time to argue why I believe the wage earner protection program part of the act is so important. I will simply underscore that the bankruptcy and insolvency part of the bill is beyond my grasp after one day of reading. No doubt, it is well within the capacity of all other honourable senators. The Senate Banking Committee has already given us the signal that this bill might not have it all right, or at least that part of the bill. I think there is a lot of merit in the idea. I would appreciate an indication from the government as to whether it would support sending this bill to committee with an instruction that the bill be divided so that it could be reported back here very quickly and sent to the House of Commons. In this way, they might be able to adopt that amendment prior to three o'clock Monday afternoon.

Senator Rompkey: As much as I think there is a lot of merit on first blush in the recommendation that has been made, I do not think we have the time to do what is being asked. We did explore that possibility. As a matter of fact, that was one of the reasons we took the day to explore that possibility. Given the rules in the House of Commons and the time available to us, and given the way the bill is structured so that one section depends on the other to do what is necessary to provide wage protection to workers, I do not think that the proposed solution is possible within the time frame that we have in front of us.

There is agreement on both sides that work needs to be done to improve the bill. I am not disputing that fact. There are very knowledgeable people on our side who have ideas that they want to put forward, including the Chairman of the Banking Committee and other members of that committee. I do not think there is a disagreement among members of the Banking Committee on either side of this house. They know more about this subject matter than I do. They have studied it and know what needs to be done. As a chamber, we must find a way to let them do that within our rules and the rules of the House of Commons. I suggest that we let the bill go to that committee because I think other things can be done to ensure that, sooner rather than later, what is at fault here is corrected. There are ways to do that. I would suggest that this committee is the best place to explore those options. I wish I could accede to the request of Senator Kinsella, but as I tried to explain, I do not think it is an option that we have the luxury of following right now.

Hon. Terry Stratton (Deputy Leader of the Opposition): When the Deputy Leader of the Government said other things could be done, I am curious. What other things could be done? I think the chamber should be given an idea of what those other things are.

Senator Rompkey: As I said, I am not as conversant with this bill as are other senators. I do not think I want to or can get into the alternatives at the moment, but I think there are alternatives. I know there have been discussions across the chamber with those people who are on the committee and are knowledgeable about the contents of this bill. I believe if we leave it to them, they can come up with a way to do this. We would be prepared to support whatever is reasonable. Whatever can be done, we would be prepared to support. I do not want to suggest things specifically. Given my own inexperience, I would yield to the superior knowledge of those senators who are members of the committee.

Hon. W. David Angus: Honourable senators, I rise in the same spirit as my colleagues, Senators Kinsella, Tkachuk and Meighen, to join this debate on second reading of Bill C-55. It is curious, to say the least, that there are no senators from the government side, other than the deputy leader, to extol the merits of this bill.

It has been made adequately clear by Senators Meighen and Tkachuk and the members of our party here and throughout the other place that we support and continue to support the wage earner protection provisions of Bill C-55, which are a very small part of that bill. I believe they are severable but maybe not in three days. The problem is that this particular provision, in a nutshell, means that there will be increased security given to wage earners in the case of a bankruptcy. They will be ranking up high with the governments and bank security holders. As anyone who knows bankruptcy law, this hierarchy, if you will, of security holders, is listed and would enhance the position of the wage earner. We are very much in support of it.

The problem is that we are faced with framework legislation. From May 1, 2003 until late November of that year, the Banking Committee reviewed at great length the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act and all the related statutes and regulations that make up our insolvency legislation in this country. This matter was referred to the Banking Committee, following long studies by stakeholders, because Canada's insolvency legislation was so vastly out of date.

The committee had the benefit of learned counsel and a host of witnesses. I cannot remember the exact number. The committee report was tabled in this house in November 2003. The recommendations from the Banking Committee and other input that was deemed appropriate by the government led to the drafting of Bill C-55. It was just starting its passage through this Parliament. It was before the committee of the other place when it became evident to committee members — and I am reliably informed — that there were many glitches or inaccuracies, drafting errors and problems with the bill that were to be dealt with by the government. Representatives of the Department of Industry were to make the appropriate amendments at that committee and that was the place to do it. Now, this bad legislation is being foisted upon us by the other place and we are asked to deal with it quickly.

I have a problem with the low regard afforded to senators and to this institution by many Canadians. The reasons are many and varied and probably mostly wrong. They do not all arise from the fact that we are appointed rather than elected, or in some peoples' minds "unaccountable" in their definition of the word "accountable." Our image, rightly or wrongly, is poor. It is not what we would like it to be even in an imperfect world. As we know, perception usually elevates to reality sooner or later. The way we act in certain cases, usually just before dissolution of Parliament, frequently comes in for criticism because of our obvious failure to do our constitutional duty, namely, to study, review and give sober second thought to legislation sent to us by the House of Commons. This is a classic case, honourable senators, where sober second thought and review is needed.

• (1550)

As the Deputy Chairman of the Banking Committee, I can tell honourable senators that we had this matter on our agenda for February of next year. I do not want to misrepresent the number, but I think we had some 70 witnesses lined up to testify, including experts, and we were planning a thorough review. When we heard there were flaws and glitches, we were hopeful the bill would come to us already amended in a substantial way, which would obviate some of the need for study.

Honourable senators, I have often pointed out the problem of the Senate rushing bills through and not doing our constitutional duty, which is why our image takes a big hit at times like this. The last time was in May of last year and, in this year, Bill C-15 was whipped through without amendments being allowed to be made at committee after several weeks of study and many witnesses. The bill was whipped through and we could not even make amendments. It turns out there is a vast body of opinion that this bill was bad law and maybe even unconstitutional, and it is already being challenged in the courts. The ink is hardly dry on the bill. This gives us collectively a very high hill to climb if we want to clean up our act.

When I came to the Senate in June of 1993, I think the image of senators was at an all-time low. It was following the GST debate. My relatives said, "How can you possibly go to that place?" I can remember long discussions here, and we set up a committee to deal with how to improve our image, what kind of PR program we should bring forward, and what kind of education we needed for ourselves. Then we fall back into the same old ways, which makes no sense.

Honourable senators, this bill is not our fault. It is not a matter of party. This bill came to us from the other place. The House of Commons interrupted their work and sent it to us in a terrible shape. It behoves us to hold them to account and not accede to their request.

I did sit on the committee through all the hearings in 2003. I am a lawyer and I do know something about bankruptcy. It is certainly not my field of expertise, but it is that of our learned colleague Senator Goldstein, who was the counsel to the Senate Banking Committee for those hearings. It does not show respect to our new colleague to put him in the position where he would have to put his moniker on something like this.

Starting about five o'clock yesterday afternoon, I and Senator Meighen and others in this place started to receive phone calls, letters, emails and messages. I know that Senator Grafstein, the chairman of the committee, did as well. I have never had anything like this happen as long as I have been a senator.

There are technical problems and drafting problems with the bill. There are things that could be fixed easily but which have grave consequences. We are trying to find a solution. On our side, we would like to split the bill. We do not know the technical reasons, but we take it on good faith that the other side has tried and cannot do it. Another thing that could be done, and which has been referred to, would be to simply bite the bullet and defer this bill. It is wrong for us proceed.

My colleagues have referred to a number of specific problems with the bill. We all know that if amendments are introduced in the Banking Committee and come back to this place, we will be faced with the same problem again of having to split the bill. There is no point kidding ourselves that we can study the bill in the Banking Committee and fix because we will be faced with the same problem. Senator Grafstein said that we have a crisis of conscience because we take our job seriously. We think, rightly or wrongly, that the Banking Committee has great credibility in the financial services sector and the business community, and it would be a laughing stock if it put a rubber stamp on this bill.

Honourable senators have all heard that this bill deals with is a very complicated part of the financial services business — the structured products industry, derivatives, swaps and all of the products that are involved with hedging. Canada is a big player in this global industry. I will read something wherein I am told that if the bill passes, it will destroy completely the derivatives and swaps and the structured products industry in Canada. It would be a terrible black eye for Canada. An expert wrote to me and stated: "It is very important that bankruptcy legislation include exemptions from statutory and court-ordered stays on the acceleration or termination of contracts and the protection of netting rights if entities from that jurisdiction are to participate in the securities lending, repo and derivatives markets. This is a requirement of the BIS standards," which is the Bank for International Settlements, in Basel, "implemented in every country. Canada does have those termination and netting protections in all of its insolvency legislation." That is the legislation presently on the books.

He went on to say, "However, Bill C-55 has a glitch because certain amendments have been made to the CCAA within the terms of Bill C-55 without thinking about the termination and netting exemption for these contracts. In a nutshell, the CCAA currently has an exemption for eligible financial contracts from the general stay power of a judge in a CCAA proceeding."

This is what keeps Judge Farley in business, and Senator Smith knows very well what goes on up there.

"This is currently the only stay power a judge has under the act. The amendments and a couple of our new stay powers, section 11 and section 34 — section 34 is an automatic stay on accelerating contracts. This is actually the more important stay with respect to derivatives contracts because termination and acceleration are exactly the actions that must be taken under an EFC," which is one of these kinds of contracts, "and this is what BASEL-2 requires to be enforceable in an insolvency proceeding. Section 34 has a parallel provision in the BIA proposal provisions and in the BIA bankruptcy, but only with respect to individuals in bankruptcy."

In other words, the drafters or officials made the amendment in Bill C-55 for the BIA section, but they forgot to do it with respect to CCAA. I am told by the stakeholders that this oversight was brought to the attention of Industry Canada, and they said, "Oh, yes, we will fix it in the House committee," which did not happen.

The expert continues: "If this is not changed, Canadian banks and financial institutions will not be able to obtain legal opinions which they will only lend against in terms of these kinds of contracts and the industry will be destroyed."

I will not go on. This is very technical stuff, but it is an example of what we would be collectively enacting. Many of us are from Missouri on these kinds of things, but I am telling you that we were ready and were planning to do a full study in the new year on this bill. I think that is the solution if we cannot split the bill. We would love to split the bill, and I endorse what everyone has said in that regard, but if we cannot, I am afraid it will have to be done next year.

I hope honourable senators will take these comments as they are meant. They are meant seriously, and they are in all of our interests. This is serious stuff, and it goes to our constitutional duties as senators and members of this place. I would conclude by moving adjournment of the debate.

[Translation]

Hon. Madeleine Plamondon: Honourable senators, I am in agreement with adopting the adjournment motion. I would just like to explain why.

Senator Prud'homme: Certainly.

Senator Plamondon: Before I came to the Senate, my career was in the field of consumer affairs.

• (1600)

[English]

The Hon. the Speaker pro tempore: Honourable senators, it is moved by the Honourable Senator Angus, seconded by the Honourable Senator Eyton, that further debate be adjourned to the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: Those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: Those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: Call in the senators. Is there agreement on the bell?

Hon. Rose-Marie Losier-Cool: Could we agree to a fifteen-minute bell?

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: The bell to call in the senators will sound for 15 minutes.

• (1620)

Motion negatived on the following division:

YEAS THE HONOURABLE SENATORS

Johnson Andreychuk Kinsella Angus LeBreton Carney McCoy Champagne Meighen Cochrane Nolin Comeau Plamondon Di Nino Stratton Evton Tkachuk-18 Gustafson

NAYS THE HONOURABLE SENATORS

Hervieux-Payette Austin Hubley Baker Joval Banks Lapointe Biron Lavigne Losier-Cool Bryden Callbeck Mahovlich Campbell Carstairs Mercer Milne Chaput Mitchell Christensen Moore Cook Munson Corbin Pépin Cordy Peterson Cowan Phalen Dallaire Poulin Day Poy De Bané Downe Ringuette Robichaud Eggleton Rompkey Fairbairn Fraser Smith Stollery Furey Tardif Gill Trenholme Counsell Goldstein Watt Grafstein

ABSTENTIONS THE HONOURABLE SENATORS

Zimmer-52

Prud'homme-1

Harb

The Hon. the Speaker pro tempore: Resuming the debate.

An Hon. Senator: Question!

The Hon. the Speaker *pro tempore*: The motion is defeated. Resuming the debate, Senator Plamondon.

[Translation]

Senator Plamondon: Honourable senators, I would have liked to have been able to take advantage of the adjournment to prepare for speaking on bankruptcy from the consumer's point of view. Before I came to the Senate, I headed a consumer group and budget consultation was a daily occurrence. When giving budget advice, one does not try to push people into bankruptcy. That is the last option. The first thing one does, when dealing with a consumer in difficulty, is to try to balance the budget, to find enough money to pay off the creditors, which sometimes involves calling them and trying to negotiate the debt. If people do have to declare bankruptcy, they do it with reluctance, because it is perceived as a failure in their life. It is a black mark on their credit rating. No one rejoices at having to declare bankruptcy.

There is always a cost. As I listened to the speeches by my colleagues, I would have liked to have seen the minutes of the standing committee that sat just before I arrived here. Reference has been made to the Standing Senate Committee on Banking and Commerce, and I have not had time to look at the document. You can see what a size it is. It seems to me that it would have been fair to allow me the opportunity of a single day's adjournment so that I could start by consulting some consumer groups and then study the conclusions of the briefs presented by consumer groups. I do not know whether some of those groups also contacted the House of Commons. It would be important to find out the opinions of consumer groups involved in budget consultation before passing a bill as important as this one without any reference to daily experience. I am familiar with what is done in Quebec. I think in the rest of Canada they are called credit counseling agencies or something of the sort. We do not have the benefit of those witnesses.

Without wanting to seem impolite, I must say that I find it indecent to pass a bill on bankruptcy without consumer input. I do not have the statistics at hand. There is a campaign being carried out at this moment in Quebec that has a catchy title in French about being in it up to one's neck. People are getting deeper and deeper in debt. We will be seeing bankruptcies. There are major plant downsizings being announced, and people will end up forced into bankruptcy.

I will not talk again about the bill that would have people caught in the clutches of finance companies. It would be tempting to say that, when banks turn down a budget arrangement, finance companies hasten to do so, knowing that the loans will become delinquent and income can still be generated from exorbitant interest rates.

I would have liked to have a little time and to be able to speak after I had read this massive document and consulted a few consumer groups. I do not know whether a further adjournment may be requested but, on the off chance that it can, I request it, and you can tell me if it is denied. I ask that the debate be adjourned.

[English]

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

An Hon. Senator: Question!

[Translation]

Hon. Marcel Prud'homme: Honourable senators, Senator Plamondon referred to this massive document. The reason for her appointment to the Senate is no mystery. Whether some honourable senators find it questionable or not, the Right Honourable Jean Chrétien was always the cleverest of politicians. When he chose Senator Plamondon — you can see that I came unprepared, I am not trying to hold things up here, so, please bear with me. Some honourable senators do not even know what I am talking about because they do not speak French and they are not even hooked up to the simultaneous translation system. This goes to show that we are often wasting our efforts in the Senate, and I find that regrettable. The Senate is not the House of Commons. This is pretty strange.

You may have noticed that I watch and I observe. Soon I will put my observations in writing as part of my 42 years as a parliamentarian. I have seen and heard hopes and despair, deception, a bit of everything. I know we could pay a little more attention to people who have more experience, like Jean Chrétien, who appointed Senator Plamondon to the Senate. She is certainly not known in Vancouver except in a few circles. She probably is not known on the West Island of Montreal except by a few, like Senator Goldstein who was Senator Kolber's advisor on the banking committee, on which I had the honour of sitting. He thought I had a lot of judgment at the time. This did not stop me from voting against bank mergers, which proved that I may not have been so wrong. I see a great gentleman, the grandson of a prime minister here today, who saved my honour by saying: I am sorry, but I do not agree with the views of Mr. Prud'homme, I do not agree with his position. I was at the Standing Senate Committee on Banking, Trade and Commerce and what Mr. Prud'homme just said is true. I commend Senator Michael Meighen for his integrity. Some people questioned whether I had voted against the bank merger bill. I thank him again. I am not afraid to thank people in public. And if I insult people, I am not afraid to apologize in public.

• (1630)

But she is known in the rest of Quebec. I said it earlier with a little more enthusiasm, which I am now losing for reasons you well know. But she is known in the rest of Quebec and has good connections. You do not watch French television, and I do not blame you. When Senator Plamondon appears on French television in Quebec, she is appearing in a very closed market. English-speakers have access to a huge international market. You have access to variety of television and radio stations. But, in some places in Quebec, people watch only two or three television stations. Unilingual francophones do exist. You think that there are only unilingual anglophones in Canada. There are still millions of unilingual francophones in Quebec. And these people will have to be convinced to vote Liberal, but I will not

be the one to do it. I would be happier to vote for the Conservatives but not for the Bloc Québécois — not me, not now.

Senator Plamondon has the power to convince, because she is always being invited on the most popular television shows and we are not. So, I tend to listen to her when she talks about something she knows.

She is what we call hard-headed. She is known for this in Quebec. I do not want insult you. In English, I would say that she is stubborn. When she knows her subject, she is relentless. She knows what she is talking about. She is the great champion of consumer rights in Quebec. She is tuned in. When will you tune in to what I am saying? Instead of trying to push her around, just try to convince her. There is no harm in listening.

The Senate is a place of reflection. I see Senator Andrée Champagne, who has just joined us. She has something to contribute. She was once a minister. She is very familiar with CBC, the crown corporation. We all have something to contribute to this country. We are senators, we are protected. When we have the misfortune of not following the lead of petty leadership in the Senate, people try to crush us by any means possible.

You on the opposite side have tried to destroy me for years and you have failed. My term is almost up, and I will be leaving. But, as long as I am here, I will not allow people to destroy someone just because they do not like what they hear. All she wanted was one more day. She would have had time to call her consumer associations. She would have had time to get a better idea of this massive document, as she so aptly said.

[English]

I am sure that what I am about to say will be music to the ears of Senators Austin and Rompkey.

[Translation]

I am sure that with some patience you could change her mind about the upcoming agenda but you are going about it the wrong way. I can tell you now that you will not have much success. I am not going to tell her what to do, but if she asks me how this rule works then it is my duty and the duty of all parliamentarians to tell her. It is not up to me to tell people how to vote. I do not like being told how to vote, but I do not know much about this topic. I am telling you, Senator Goldstein, you saw me work on the banking committee. I am a peacemaker. I know that people would like us to fight one another to make the debate interesting.

[English]

I will not fight you, because I know that you will not fight me. The honourable senator knows that the honourable senator knows her subject. I do not. Senators who are never present usually say that they do not know what we are talking about. I like to listen to people who have knowledge and understanding, and then I make up my own mind, as a good senator should. That is what we should do.

However, I regret to tell Senator Plamondon that, according to the rules, she cannot ask for an adjournment. I could move an amendment, and then she could speak again. Honourable senators know that I could do that under the rules. I could even move the adjournment of the Senate. However, that would be a waste of energy because that would only provide a 15-minute break.

In life, sometimes we need to back off and cool off. I will do that and not move an amendment, as I could, just to annoy a couple of senators, although it is very tempting to do so.

Madame Speaker can now proceed to do her duty, but honourable senators must remember that there are rules, although the Liberals, in particular, have repeatedly abused them. Senators Tkachuk and LeBreton will love what I am now about to say. The Liberals have no lesson to teach anyone. When I was chairman of the Liberal caucus in the other chamber, I used to sit in the gallery here, watching you, and I saw the Liberals repeatedly abusing the rules. Now, whoever knows the book can make life miserable for the Liberals. I suggest that, in the time available to us, senators read the book.

[Translation]

The little catechism of French-Canadian Catholics from Ouebec.

[English]

If Senator Plamondon learned all the rules of the Senate, she could stop the proceedings of the Senate. I know an ex-Prime Minister who would greatly enjoy watching that.

I will go no further than to ask that accommodation be given to people who feel strongly about an issue. I do not wish to tutor anyone or to be paternalistic. However, that is my feeling with regard to accommodating the government's agenda. I am trying to negotiate publicly. There is too much negotiating behind the curtain. I know the government's agenda and I am trying to help reconcile what seems irreconcilable. There are bigger problems in the world: There are people dying of poverty; there are people dying of torture. I think we can find a way to harmoniously conclude our work here in the Senate, as Canadians expect us to do, even if they cannot in the House of Commons.

I regret to inform Senator Plamondon that she cannot move the adjournment, nor can I. Neither will I move an amendment, although I am surprised that no Conservative senator has done so, but I do not wish to give them ideas.

Hon. Jack Austin (Leader of the Government): Honourable senators, out of respect for Senator Plamondon and Senator Prud'homme, I will say that the public policy issue here is a tradeoff between the interests of a senator in further studying the bill and the urging of various communities in the Canadian public that want us to address the bill aggressively. It seems to me at this moment that the appropriate action by the chamber is to send the bill to the Standing Senate Committee on Banking, Trade and Commerce. Senator Plamondon is a member of that committee

and, of course, she is fully aware that she can speak again on third reading debate in this chamber to present her views to us.

The Hon. the Speaker pro tempore: Are senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time, on division.

• (1640)

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: When shall this bill be read the third time?

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

BUSINESS OF THE SENATE

MOTION TO AUTHORIZE SATURDAY SITTING ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of November 22, 2005, moved:

That when the Senate adjourns on Friday, November 25, 2005, it do stand adjourned until Saturday, November 26, 2005, at 9 a.m.

The Hon. the Speaker pro tempore: Is the house ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: I do not see two senators rising. Are you asking for a vote, Senator Plamondon?

Hon. Madeleine Plamondon: Yes, because I do not agree with the motion.

The Hon. the Speaker pro tempore: I had asked if the house was ready for the question, senator.

Senator Prud'homme: If I may, honourable senators, Senator Plamondon said that she would like to adjourn further debate on the item.

Senator Plamondon: No.

The Hon. the Speaker pro tempore: Honourable senators, is leave granted to hear Senator Plamondon again?

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: Leave is not granted, senator.

Motion agreed to, on division.

MOTION TO AUTHORIZE MONDAY SITTING ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of November 22, 2005, moved:

That, notwithstanding rule 5(1), when the Senate sits on Monday, November 28, 2005, it shall meet for the transaction of business at 9 a.m.

Motion agreed to.

PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT

MOTION TO REFER TO BANKING, TRADE AND COMMERCE COMMITTEE ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of November 22, 2005, moved:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to undertake a review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (S.C. 2000, c. 17) pursuant to Section 72 of the said Act; and

That the committee submit its final report no later than June 30, 2006.

Motion agreed to.

[Translation]

TELECOMMUNICATIONS ACT

BILL TO AMEND—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Transport and Communications (Bill C-37, to amend the Telecommunications Act, with amendments and observations), presented in the Senate on November 22, 2005.

Hon. Joan Fraser moved the adoption of the report.

She said: Honourable senators, rule 99 states that:

On every report of amendments to a bill made from a committee, the Senator presenting the report shall explain to the Senate the basis for and the effect of each amendment.

Bill C-37 amends the Telecommunications Act to allow the creation of a national do not call list. The Senate referred the bill to committee on November 2, 2005.

We heard witnesses on Wednesday, November 15, 2005. In four hours of hearings, we heard 20 witnesses. We also received written submissions and follow-ups in writing from witnesses who had appeared.

Clause by clause review of the bill took place on November 22. Three amendments were taken into consideration, two of which were passed unanimously and are contained in the report before us today.

[English]

There are observations attached to the report, which I will address briefly in a moment. First, I will speak to the two amendments. The amendments are simple, senators. The first one applies to a clause of the bill that had proposed that the Minister of Industry table the CRTC's annual report on the operation of the do-not-call list in the House of Commons only. As honourable senators know, when this kind of process creeps into a bill that comes to us from the other place, we correct it. In that way when a document is tabled in one House, we require that it be tabled in both Houses. We insist that both Houses be treated equally, as is the constitutional right. The amendment in question ensures that the bill respects the position of both Houses by requiring that the report be tabled in each House of Parliament.

The second amendment is almost as simple and, in the view of the committee, equally necessary. As it came to us from the other place, the bill called for fines if violations of the proposed legislation were to occur. The fines were to be a set flat amount of \$15,000 per violation in the case of corporations and \$1,500 per violation in the case of individuals.

When one considers the intent of a do-not-call list, one can imagine a small company unwittingly breaking the law 20 to 40 times before realizing what it was doing. That small company would be liable for a total amount in fines that could drive it out of business. That is not the object of the bill, which is designed primarily to curb those terribly annoying telemarketers whose job is to harass us at suppertime.

Your committee adopted an amendment that would set those fines as maximums, so that the fine would be up to \$15,000 per violation for a corporation and up to \$1,500 for individuals. These amendments, which were proposed by the Honourable Senator Tkachuk, were adopted unanimously in committee.

We also attached some observations that I should address. It is important to realize that Bill C-37 is subject to a three-year review. That is important because like many such bills, it has complicated implications. It will be important to assess how it has worked. In addition, the CRTC, which is charged with implementing the bill and with setting up the mechanical and regulatory framework for implementing the bill, will hold a wide-ranging consultation before the bill comes into force.

Therefore, our observations say that during its consultation, the CRTC should gather information and prepare recommendations for the eventual three-year review. The review would suggest ways in which the legislation could accommodate some calls that are not exempted currently under the bill. Those would be calls based on personal relationships — in other words, you call somebody you know on behalf of a non-profit agency; business to business calls, and calls based on referrals. The latter was a point that was raised in particular by the insurance industry.

• (1650)

We also note that as the CRTC is developing its regulations, it will need to give particular attention to clarifying what it means when referring to "a pattern of abuse." This is not in the bill, but it is the term that was used by the representative of the CRTC who appeared before us. He explained that they would be most unlikely to bring the full weight of the law to bear in the case of somebody who had made one phone call that was not permitted by the law; that they would require a pattern of abuse to be established. However, they have not told anybody what that pattern of abuse is. Therefore, we are telling them, in our observations, that they must be very clear about what that means.

Finally, we asked them to collect statistics on complaints that they receive under the terms of this legislation, and on complaints that they receive about calls that are not prohibited by the legislation. As you know, there are some broad categories of exemptions under this bill. This bill does not affect calls made by registered charities, political parties, newspapers or businesses with which the person being called has a business relationship established within the preceding 18 months. We thought it would be important, when the three-year review comes around, to have some indication — which is not now available; statistics do not exist — of the kinds of calls that prompt complaints to the CRTC.

That is the work that your committee now submits to you for your consideration.

Hon. David Tkachuk: Honourable senators, there was no one who had a problem with Bill C-37 in principle. Its purpose was so that people could be removed from a list and so that other people would not call them to solicit — whether it be cash or business or messaging in the case of political parties, or for people whom you do business with, who have other business that they may wish to sell you.

It is a strange situation because we all put our names in the phone books and then we are really upset when people call us. I have never understood the logic behind do-not-call lists. I always thought if you do not want people to call you, you pay the telephone company \$2 a month and your name will not be in the phone book, nor will it be available through information. The only people who will call you are the people you want to call you.

Nonetheless, we have the situation; and this bill came before us, which is full of exemptions. It needed a technical amendment, which Senator Fraser has already spoken to, and we adopted that. Therefore, it was open because it had to go back to the House of Commons for further amendments.

The exemptions in this bill, which include political parties, charities and people you do business with on a regular basis over

an 18-month period, means that you will still get between 68 to 80 per cent of the calls that you already get. There will be no removal list to go to. People will still be able to call you.

If Canadians think that over the Christmas holidays there will be peace and quiet in their homes, they are badly mistaken. This bill is like a Catch-22. It will prevent do-not-call, even though you have your name in the phone book, but people will still call you anyway. That is the kind of legislation that we have before us.

We have the other great exception, which is newspapers. They, too, are exempt; they can phone you. They convinced the people in the other place that they serve a great public good. Life insurance companies and disability companies do not, but newspapers do.

On the basis that the House had already accepted the principle of exemptions, I took it that we should just exempt everyone. I tried to do that. I tried to get the life insurance companies in there as well, and I will tell you a little bit about that in minute.

In the bill, they also had fines. The officials and the parliamentarians responsible seemed to have a shaky grasp of the content themselves. While they told us that the fines levied by the bill would be on a sliding scale, the legislation made no allowance for this. It stipulated a fixed figure of \$1,500 for individuals and \$15,000 for incorporated businesses.

They said that they would not necessarily act after a complaint. You get on the list and then you have to complain if people call you that you are exempted from, and there has to be a pattern of abuse. What was a problem is that they were not able to define what a "pattern of abuse" would be. We did talk about that quite a bit, and all of us were concerned because this would mean that officials and bureaucrats would get to determine pattern of abuse, and politicians would not be able to step in for a period of three years.

We did move an amendment. I do not want to spend too much time on this since we have another bill over at the Banking Committee. The Liberals will be happy that I do not intend to spend too much time on them. Therefore I will go to the amendment that I tried to move, which was to exempt insurance companies. The insurance companies had a particular problem. When you work for an insurance company, the first people you approach are your family. You phone cousins and people like that. You develop a direct marketing program around families and friends; those are the first people to whom you try to sell insurance. They may be buying insurance, or they will say, "I already have some, but Senator Gill does not have insurance. Would you like to phone him?" That is what they do, and this legislation prevents them from doing that, so I attempted to move an amendment for that.

What happened is that there were two of us and there were six Liberal senators. We moved the motion to amend the bill and I thought we had won the amendment because it was two to one. However, they convinced me that Senator Tardif had raised her hand. It was then two to two, so it fell. However, we had the vote anyway because no one else voted. Either they had abstained or were not sure about what was happening.

The interesting part was that there was an amendment to the amendment. I moved it and it passed. The amendment to the amendment passed, and then all the Liberals voted against the original amendment. As a result, the life insurance industry lost a very important amendment and they are hoping this bill fails when it gets to the House of Commons.

There was an amendment that did pass that our side put forward, which was to have a sliding scale of penalties. The penalties were set up so that it could be interpreted as \$1,500 per call. In other words, if you made 10 bad calls, you could be fined \$15,000 — or \$150,000 for a business. We clarified that and that amendment was supported by all members of the Senate.

I support this bill with a great deal of reluctance. However, in the grand scheme of things, it is not the most important thing in the world. After the election that is coming in January, we will make all the crucial amendments that are necessary to this bill.

• (1700)

Senator Fraser: Under the rubric of commenting on Senator Tkachuk's brilliant remarks, I will make a correction to my own remarks. I said that both the amendments that we adopted were proposed by Senator Tkachuk. In fact, the first of them was proposed by Senator Tardif. The record will show that the disputed vote was eventually resolved by roll call vote.

Senator Tkachuk: In my previous speech on Bill C-55, I said that I was the only non-lawyer on the committee. Of course, Senator Massicotte gave me heck. I always wondered why he was so smart, but he is not a lawyer, either. I would like to correct that for the record.

Hon. Larry W. Campbell: Honourable senators, for some reason my honourable friend believes that putting your name in the phone book makes you eligible for verbal abuse right around supper time. Anyone who has more than three friends will probably want to have their name in the phone book, because some may forget your phone number.

The option to voting for this bill is to simply do nothing, of which we have had many years. This is not the way to address an ongoing and growing problem. I believe that, as the senator said, the bill should be implemented, and I believe that the Liberal Party will be happy to fine-tune it after the next election.

I have never had a relative try to sell me insurance. Maybe that does not happen in British Columbia, or maybe it is because I live such a dangerous life that no one will insure me.

I do not believe that some of these examples hold up in the real world and I would ask that we go forward and vote on this legislation.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

The Hon. the Speaker pro tempore: When shall this bill, as amended, be read the third time?

Hon. Marcel Prud'homme: At the next sitting.

Hon. Claudette Tardif: Now.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Tardif —

Senator Prud'homme: At the next sitting. There is no leave.

The Hon. the Speaker pro tempore: I asked if leave was granted.

Senator Prud'homme: You asked when the bill will be read the third time, and I said, "At the next sitting."

The Hon. the Speaker pro tempore: Senator Tardif asked that the bill be read the third time now.

Is leave granted to proceed to third reading now?

Some Hon. Senators: Agreed.

Senator Prud'homme: The next time I will bring a big microphone. Long before Senator Tardif, whom I like very much, got up, I said, "At the next sitting."

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: The Honourable Senator Tardif moved, seconded by the Honourable Senator Fraser, that the bill, as amended, be read the third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I rise on a point of order. Perhaps Madam Speaker did not understand. When the question was put, Senator Prud'homme said, "At the next sitting." That was clearly an indication that leave was not given to proceed today.

The Hon. the Speaker *pro tempore*: Senator Tardif's motion was to proceed immediately to third reading. That required an answer before —

Senator Stratton: Unanimous consent is required to do that, and Senator Prud'homme said, "Tomorrow."

The Hon. the Speaker pro tempore: I am sorry. Am I correct that Senator Prud'homme does not want to give unanimous consent?

Senator Prud'homme: I said, "At the next sitting of the Senate." I think that is clear.

Hon. Sharon Carstairs: Three times the Speaker *pro tempore* asked, "Do we have leave?" At no time did Senator Prud'homme say "no," which is the correct response when you are not prepared to give leave. The Speaker *pro tempore* asked once, twice, and a third time. Honourable senators, if Senator Prud'homme wanted to say "no," he should have said "no."

Senator Prud'homme: I very much like being tutored by Senator Carstairs. When we come back, I want to work on the special committee on ageing, so I do not want to fight with her now.

I think that saying, "no," and saying, as the rules provide, "At the next sitting," are equivalent. I leave that in your hands. You have a good adviser. In my view, "At the next sitting" means not now.

Senator Stratton: Because some of us on this side heard and understood Senator Prud'homme, some on this side said "no" to clarify the situation, at least three times.

The Hon. the Speaker pro tempore: Leave is not granted. Therefore, the bill will be placed on the Order Paper for consideration at the next sitting of the Senate.

On motion of Senator Prud'homme, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

PERSONAL WATERCRAFT BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Andreychuk, for the third reading of Bill S-12, An Act concerning personal watercraft in navigable waters.— (Honourable Senator Lapointe)

Hon. Jean Lapointe: Honourable senators, I will warn you that I am going to waste less time than Senator Prud'homme. I am just being funny, perhaps not very funny, but then neither is Senator Prud'homme all of the time.

When we sit long hours and follow the orders of Parliament which sends us bills at the last minute, you can see how many senators attend. You will see that, instead of adopting a regular procedural policy, we are always in a last-minute rush. Now we are going to sit Friday, and Saturday and Sunday while we are at it. I do not mind. I will be here.

That said, in connection with this Bill S-12 concerning personal watercraft in navigable waters, I must start by congratulating Senator Spivak for her hard work on this and her devotion to helping improve the quality of life for those who live along our country's waterways.

That said, I must point out that, between the time this bill was first introduced and this stage, the watercraft industry has made several rather major changes in response to the concerns and problems of those living along waterways. Bombardier Recreational Products has made substantial progress in the design, creation and manufacture of machines that are cleaner, quieter and safer.

As far as the environment is concerned, a number of studies have demonstrated that the impact of personal watercraft on aquatic plants, fish and animals is slight, if not non-existent. What is more, these studies indicate that the noise levels of personal watercraft are lower than those of conventional motorboats and that they produce the same atmospheric emissions as similar motorboats. What is more, the industry has introduced new, two-stroke motors which are far less polluting than the previous four-stroke ones, and this will radically change the emission levels of personal watercraft.

As for safety, I have learned from a number of documents I consulted that the Coast Guard would be prepared to consider requests to restrict or ban the use of personal watercraft on certain bodies of water using existing procedures, the Boating Restriction Regulations. These regulations cover the safe use of all types of vessels, including personal watercraft, thereby making the bill we have before us pointless.

• (1710)

Honourable senators, I will conclude by emphasizing that the problem with personal watercraft is not the watercraft but lack of good citizenship on the part of certain users.

[English]

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Cochrane, seconded by the Honourable Senator Andreychuk, that this bill now be read the third time. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: I heard a "no"? On division.

Motion agreed to, on division, and bill read third time and passed.

CRIMINAL CODE

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Ferretti Barth, for the second reading of Bill S-43, an Act to amend the Criminal Code (suicide bombings).— (Honourable Senator Rompkey, P.C.)

Hon. Roméo Antonius Dallaire: Honourable senators, I wish to —

Hon. Terry Stratton (Deputy Leader of the Opposition): May I make a point? I understand that Senator Dallaire is the second speaker. I would like to reserve the 45 minutes as the second speaker for the official opposition, if I may.

The Hon. the Speaker pro tempore: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Dallaire: I stand before you to pursue the debate on Bill S-43, to amend section 83.01 of the Criminal Code on suicide bombings, making it, per se, a criminal offence. The aim of this amendment to the Criminal Code is fundamentally to close a loophole in regard to one of the crimes against humanity that is becoming more and more current in this era. Furthermore, it is to reinforce our position in regard to continuing an assault on impunity: that is, impunity of those who continue to use the civilian population as targets in an attempt to change the situations in their country.

My particular interest in arguing or presenting arguments in support of this bill comes from my experience with the International Criminal Court. Through that court it has been my experience that much documentation is referred to when we attempt to bring to solution and bring to justice those who commit crimes against humanity. It is not just the act but so often also the documentation by which we can bring these individuals to justice that is the reference that we need to prosecute them and ultimately to create such an atmosphere where impunity is no longer acceptable. By doing these things, we reduce the possibilities of crimes against humanity that turn into humanitarian catastrophes that ultimately end not only in ethnic cleansing but go all the way to genocide.

We are in a new era of not security but insecurity. The era of the Cold War provided us with a certain balance of where we stood in regard to the possible threats to our nation. However, since the end of the Cold War, we have entered a new era of what one might even say is disorder, contrary to what George Bush Sr. said would be an era of order. In this era, the nature of conflict and also the threat to our security has radically changed. It is no more the classic warfare of grand armies on our four frontiers or in far-off lands to which we would participate in protecting our

country. On the contrary, we find ourselves wrapped up in conflicts in which the sense of insecurity is now rendered even more intolerable by the fact that it is nearly impossible to identify or determine the threat. At least in the Cold War we knew who would press the button that would ultimately send us into oblivion under a nuclear threat. We knew their ethos. We knew their mantra of conviction. However, in this era, conflict has become exceptionally complex and ambiguous. It is not an era where it is clearly the good guys and the bad guys, an era of the white hats and the black hats.

We have entered an era of conflict where the general population in so many of these nations are the instruments of war, and conflict is being exported beyond those nations that are in conflict. Now, in this time frame, we have seen ourselves moving from what used to be interstate conflicts to intrastate conflicts, and where we find the expression of conflict in a variety of fashions and some of those fashions most ignoble and barbaric. We also find ourselves in an era where we use children as instruments of conflict. In the extreme, children are even used as suicide bombers. We are now in an era where the civilian population is no more on a side of the conflict where the militaries have gone at each other over the years. On the contrary, we are in an era where the civilian population is an instrument of the conflict and is used by those in conflict to influence the outcome.

Primary strategies used by extremists in this era are to instil horror and terror, using barbarism, and in so doing, create fear, and in fear, gain control. That control permits them to manoeuvre their populations and create intolerable consequences, mostly on the humanitarian side and certainly in the arena where human rights are totally abused, and we find ourselves in front of crimes against humanities in the ultimate abuse which leads us even to genocide.

The issues of suicide bombers, recruitment and indoctrination of those willing to carry out terrorist attacks, particularly important in the case of suicide terrorism, must be looked at and deterred. In 2004, Gareth Evans, a former Australian foreign minister and now head of the International Crisis Group, argued that suicide bombings are now the weapon of choice for terrorism. The Iran terrorism expert, Bruce Hoffman, has argued that the fundamental characteristics of suicide bombing and its strong attraction for the terrorist organizations behind it are universal. Suicide bombings are inexpensive and effective. They are less complicated and compromising than other kinds of terrorist operations. They guarantee media coverage. The suicide terrorist is the ultimate smart bomb. Perhaps most importantly, coldly efficient bombings tear at the fabric of trust that holds societies together. All these reasons doubtless account for the spread of suicide terrorism from the Middle East to Sri Lanka, Turkey, Argentina, Chechnya, Russia, Algeria, and now even to the United States in North America. Suicide bombing is the most fearful of all weapons. While physical defence measures and other cooperation are necessary in an attempt to neutralize the weapons of suicide terrorism, the real key is to realize that the bomber is only the last link in the long chain. Increased intelligence cooperation is necessary in an attempt to disrupt this chain, particularly focusing on those who recruit, train and prepare bombers.

The ultimate aim of this bill is to bring another tool of deterrence to those who might not only use that weapon but ultimately those who actually do use that weapon. More broadly, countries around the world must condemn all such attacks, whether suicide or not, that target innocent civilians and use political circumstances or religions to justify them.

• (1720)

Honourable senators will recall that, after 9/11, Pope John Paul II brought together the heads of the great religions of the world in January of 2002. They sat in Assisi, Italy, for two days and at the end of that one and only conference where the world's great religions were brought together, the Pope was able to extract the concluding statement from the leaders that no religion calls upon people to kill other human beings in the name of religion. It does not exist as a premise.

Honourable senators, all governments, publicly and through diplomatic channels, should refrain from any action that appears to encourage, support or endorse suicide bombings or other attacks against civilians, and should use all possible influence with the perpetrator groups to make them cease such attacks immediately and unconditionally. This is why this amendment is significant. It reinforces that even an attempt to conduct a suicide bombing is a criminal offence under this bill.

More basically, we must always address the root causes that make the recruitment of terrorism and such bombings easier. There is no doubt that terrorism is the expression of rage by the developing world and, despite the walls and instruments that we create in our defence, ultimately the best defence is not a defence around our areas of interest but, rather, by going aggressively to the source of this rage and, ultimately, eliminating it. One of the primary instruments for doing that is not only the application of justice but also the more forceful, useful and quantitative application of international development.

Honourable senators, I present the argument that there is no room for any permission or any possibility for someone to use the civilian population and its destruction as a tool to achieve his or her aims. We must use this bill to close the loophole that allows the possibility for this horrific weapon to continue to exist because it is becoming more and more popular.

Hon. Noël A. Kinsella (Leader of the Opposition): Would the honourable senator take a question?

Senator Dallaire: Yes.

Senator Kinsella: My question speaks to the motivation of the suicide bomber and the propensity, as reported, of some community leaders to glorify suicide bombing as an activity. Honourable senators who were serving on the Special Senate Committee on Anti-terrorism to review the anti-terrorism legislation were briefed on a new piece of legislation adopted by the House in Westminster about one week ago. Under their new law, the glorification of acts of terrorism, such as suicide bombing, is a criminal offence. Would the honourable senator agree that this should be considered for Canada?

Senator Dallaire: Honourable senators, I deem it most innovative of that House to have moved in that direction. The whole idea behind it should be one of eliminating the doctrine that espouses the use of the civilian population as a tool of conflict in order to achieve political, or sometimes power, goals. Any instrument that could eradicate that doctrine would be good.

In the case of the doctrine that espouses the use of children as a tool in conflict, the goal is not to find the social and economic tools that would prevent children from being recruited but, rather, to eradicate those who so much as think of that doctrine in the first place.

Genocide is an instrument that has been used. The ultimate goal in that case is not to bring those who perpetrate it to justice but to eliminate the gestation of such a concept of genocide. In so doing, any such proactive tools to wrest that initiative from those who would use such horrific weapons should be endorsed and pursued.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I am a long-time friend and I have great respect for our retired general colleague Senator Dallaire. What is going on is so horrific. You have addressed the issue very well. I have yet to determine which of the two is worse: to glorify madness or utmost despair.

So, you would apply the same criteria, as a general, not as a senator, to places where the military, for example, would not hesitate to jeopardize civilians used as human shields by the enemy. We have examples. I chaired the Committee on National Defence for 15 years, under Mr. Trudeau. I have met chiefs of staff under previous governments who told me horrific stories where the enemy could be seen, but not the civilians in front of the enemy. The criteria we are discussing today also apply to what I just described.

Second, what lessons from your experience could be drawn from these kinds of blind bombings in Iraq, where, in attempting to hit a specific target, the civilian population ends up suffering the most? We know that more than 30,000 have died in Iraq. It is all hush-hush, of course. We know that it is a tragedy that will not heal. It is sad to say. Those who are familiar with that part of the world know that it can only get worse. I am sorry to say so, and you know I am.

I would appreciate your help in my personal reflection on how far one can go in being modern and saying that some things happened that cannot be condoned and others are taking place which are unacceptable, like the glorification of suicides, for instance. I totally agree with you on that.

The Hon. the Speaker pro tempore: Honourable senator, your time has expired. Perhaps Senator Dallaire could just give a short answer.

Senator Dallaire: Honourable senators, it is rather difficult for a general who has a microphone to be brief, but now that he is a politician, it is almost impossible. As regards the nature of the conflict in which we find ourselves, I will take the example of General Patton, during the second world war. He stated that, as a principle, the objective is to make the other one die for his

country. However, in the situation in which we find ourselves now, the other one, when dying for his country, often takes you with him, because suicide bombings are frequently used as weapons. We no longer have a scenario where the enemy is easily identifiable. The enemy is often integrated into the population. This is why a civil war is the worst possible scenario. In this context, the fundamental principle is that we have no authority to wilfully use the civilian population, the non-combatants, as instruments to achieve military goals or objectives of power. That is the fundamental humanitarian law.

[English]

On motion of Senator Stratton, debate adjourned.

CANADIAN HUMAN RIGHTS ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Meighen, for the second reading of Bill S-45, to amend the Canadian Human Rights Act.—(Honourable Senator Rompkey, P.C.)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I know that Senator Lovelace Nicholas would like to speak to this motion, having discussed it with her earlier today. However, because she is not now in the chamber, I would like to reserve the right to protect her place in speaking to this motion which, I understand, is extremely important to her.

• (1730)

The Hon. the Speaker pro tempore: Is it agreed, honourable senators?

Hon. Senators: Agreed.

DEPARTMENT OF JUSTICE ACT SUPREME COURT ACT

BILL TO AMEND—ORDER STANDS

On the Order:

Second reading of Bill S-34, to amend the Department of Justice Act and the Supreme Court Act to remove certain doubts with respect to the constitutional role of the Attorney General of Canada and to clarify the constitutional relationship between the Attorney General of Canada and Parliament.—(Honourable Senator Cools)

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, due to the heavy workload and the fact that Senator Cools is not here, I would like to restart the clock on this issue.

Hon. Bill Rompkey (Deputy Leader of the Government): Agreed.

Order stands.

EXCISE TAX ACT

BILL TO AMEND—SECOND READING—POINT OF ORDER—DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Keon, for the second reading of Bill C-259, to amend the Excise Tax Act (elimination of excise tax on jewellery). —(Honourable Senator Rompkey, P.C.)

Hon. Jack Austin (Leader of the Government): Honourable senators, the private member's bill before us was introduced in the House of Commons on November 3, 2004. It came to this chamber on June 16, 2005. Since receiving this bill, much has changed. This bill has been overtaken by events; I am referring to Bill C-43, an act to implement certain provisions of the budget tabled in Parliament on February 23, 2005, which we passed on June 28, 2005 and which was given Royal Assent on June 29, 2005.

In passing Bill C-43, the Senate took the decision to eliminate the excise tax on jewellery in stages over four years. Having made that decision, I am obliged to say that this bill, which proposes the immediate elimination of excise tax on jewellery, should not remain on the Order Paper. The Senate, already in this session, has pronounced itself on this matter. The authorities are quite clear that we should not contemplate in the same session the question for which we have already made our decision.

Erskine May, Parliamentary Practice, twenty-first edition, page 468, chapter 21, states:

There is no rule or custom which restrains the *presentation* of two or more bills relating to the same subject, and containing similar provisions. But if a decision of the House has already been taken on one such bill, for example, if the bill has been given or refused a second reading, the other is not proceeded with if it contains substantially the same provisions; nor could such a bill be introduced on a motion for leave.

Beauchesne's *Parliamentary Rules & Forms*, sixth edition, citation 624(3) is identical to Erskine May but adds:

But if a bill is withdrawn, after having made progress, another bill with the same objects may be proceeded with.

Bourinot's Parliamentary Procedure, fourth edition, chapter IX, section IX, states:

When a motion has been stated by the speaker to the house, and proposed as a question for its determination, it is then in the possession of the house, to be decided or otherwise disposed of according to the established forms of proceeding. It may then be resolved in the affirmative or passed in the negative; or superseded by an amendment, or withdrawn with the unanimous consent of the house. It is, however, an ancient rule of parliament that "no question or motion can regularly be offered if it is substantially the same

with one on which the judgment of the house has already been expressed during the current session" (w). The old rule of parliament reads: "That a question being once made, and carried in the affirmative or negative, cannot be questioned again, but must stand as a judgment of the house" (x). Unless such a rule were in existence, the time of the house might be used in the discussion of motions of the same nature and contradictory decisions would be sometimes arrived at in the course of the same session.

The prohibition against dealing with the same subject matter in the same session also finds a prominent place in *Rules of the Senate of Canada*, and I refer to rule 63(1), which states:

A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative, unless the order, resolution, or other decision on such question has been rescinded...

In his ruling of October 29, 2003, Speaker Hays stated:

The purpose of the same question rule is to avoid the wastage of time and effort in reconsidering a question that is already a decision of the House.

...Within this context, the same question rule applies only to questions that are moved and decided in the Senate.

On February 27, 2001, the Speaker ruled on the same question regarding Bill C-43, an act respecting abortion, and Bill S-7, an act to amend the Criminal Code (protection of the unborn child). He said:

Although Bill S-7 and C-43 have different objectives and represent alternatives on the subject of abortion, the Chair feels, in that they both deal specifically with amendments to Section 287 of the Criminal Code, a strong case may be made that they are "the same in substance."...

He went on to say:

I recognize that what defines the term "the same in substance" is a question of judgment and that there may be Honourable Senators who disagree with my opinion and I respect that. The issue itself is an emotional one and feelings understandably run high. The Senate has pronounced itself this session on the question of abortion. Given that the substance of Bill S-7 has been considered and disposed of during the debate on Bill C-43, it is not in order to proceed any further with S-7. The order for second reading should be discharged and the Bill removed from the Senate Order Paper.

Honourable senators, I contend from the precedents and the rulings that I have quoted that it is not in order to proceed with Bill C-259. Our chamber, in examining and adopting Bill C-43, has taken a decision on how to deal with the excise tax on jewellery in this session. Bill C-259 should now be removed from the Senate Order Paper and a message should be sent to the other place forthwith to inform them of our decision.

I am asking, Your Honour, for a ruling. If the ruling should be found not to favour my submission, I would then agree that the bill should proceed to committee. However, if the ruling favours my submission, and I believe strongly that it should, then the matter would be disposed of.

The Hon. the Speaker pro tempore: Are there other senators who wish to participate?

Hon. Consiglio Di Nino: Honourable senators, obviously, it is not a surprise that I would disagree with my honourable colleague opposite as to whether this bill is substantially the same as Bill C-43, the budget bill. I think it is an enormous stretch to suggest that these two bills, although dealing in general terms with the same subject matter, are substantially the same.

I want to remind honourable senators that this bill has been sitting here for five months, as Senator Austin said. We are obviously at a point in time in the life of this Parliament where the government has decided to deal with this issue by, what I would suggest, is an inappropriate manner. Procedural shenanigans are not the way to deal with substantive issues, particularly when they affect thousands of people across this country directly and millions across this country indirectly. Every city, town and village has a jewellery store. Major department stores sell these kinds of trinkets for two, three, five or ten dollars. This is not a luxury tax.

• (1740)

This is an unfair tax that the rest of the world has said should not exist. We are the only country left that still has it.

Bill C-259 is supported by a pretty wide majority of members in the other place, including some three dozen of the members of my colleague's party on the Liberal side. I think it is a ploy by the government to try to defeat this bill without having the courage to stand up and say, "We do not want this bill" and vote on it.

My position is clear. I do not think it is substantially the same. To you, Madam Speaker, I suggest that it is an enormous stretch. Obviously, if the government side wants to kill this bill, let them have the courage to stand up and vote against it.

Hon. Noël A. Kinsella (Leader of the Opposition): I take it, honourable senators, that we are at the stage where we are debating a point of order. The Leader of the Government in the Senate did not say he was raising a point of order, but I think the substance of what he was saying is that he is raising a point of order. Am I correct?

Senator Austin: Yes, and I asked for a ruling from the Speaker on the point of order.

Senator Kinsella: On the point of order, rule 63(1) reads:

A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative...

This is the rule to which the Leader of the Government in the Senate has drawn our reference.

In our companion to the Rules of the Senate, I refer honourable senators to some citations on page 187.

What Senator Di Nino said is absolutely right. We must be focused on whether or not Bill C-259 is of the same substance as the bill that the minister made reference to. It is a totally different bill. It is interesting that both bills came from the same other place and that there are no members in the other place who have raised the question. There were two matters before that House that were on the same substance.

More important — and regrettably, in my view — this point of order is raised at this particular time in this chamber. We have had this bill here for some time. This is the first time that an attempt has been made to suggest that it is out of order because it speaks to the same question that another bill dealt with. One has to wonder why that is being raised at this point in time.

Canadians are wondering why we are dealing in the way in which we are dealing with a lot of things this week. I think that it is regrettable that the timing of this point of order is today. It looks very much like a delaying tactic; that if the Speaker has to take a day or so to review this matter, then the matter will not be dealt with and moved on for further consideration by a committee.

During this whole week, we in the opposition have been attempting to be as supportive of moving legislation along as expeditiously as possible, recognizing the political realities in Ottawa and what will happen probably this weekend. We have tried to balance moving things along quickly with maintaining our responsibility of examining legislation, and we have attempted to be as cooperative as we could.

Therefore, I do not understand why the government, at this stage, would come up with this kind of an objection to delay this bill, and not have it go to committee. If it does not go to committee today, by the time there is a ruling from the chair, it will be too late. It looks like a delaying tactic, unless a much stronger argument can be made that somehow this bill is out of order pursuant to rule 63(1), because frankly, it is not.

Hon. Eymard G. Corbin: Honourable senators, I support entirely the argument made by the Leader of the Government in the Senate, but I have a greater concern. It is a touchy matter and I do not want to make it a personal matter, but the Leader of the Government in the Senate has asked the Speaker pro tempore to make a ruling as to the acceptability of the bill under the rules.

The Speaker occupies a particular position in this house in terms of his or her participation in debates on matters before the house. As a matter of practice, the rules also provide for the Speaker to vote. If he or she so decides, he or she is usually the first to vote on any motion put before the house.

The situation we have here today raises a number of questions in my mind. The person who is the Speaker *pro tempore*, who has now been asked to make a ruling on this matter, was supportive of the legislation. In fact, the Speaker *pro tempore*, in terms of her

ability to participate in debates when she is not in the chair, expressed her intention to vote in favour of Bill C-259. She expressed that view in the very first words of her speech. She ended her speech — I have the French text here — by saying:

[Translation]

I urge honourable senators to finally get rid of a tax policy that dates back to the early 20th century by quickly passing Bill C-259.

We have the highest respect for our colleagues who must preside over our proceedings this evening, namely the Speaker of the Senate or the Speaker pro tempore. However, I think that, under the present situation, the Speaker pro tempore should, to avoid any perceived conflict of interest, personally decide not to rule on the issue raised by Senator Austin. Considering the involvement of the Speaker pro tempore in Bill C-259, it should be up to the Speaker himself to rule on the point of order raised by the Leader of the Government in the Senate. To proceed in this fashion would be a very cautious way to deal with this matter.

• (1750)

Otherwise, regardless of the ruling, but particularly if Senator Austin's point is rejected, would the perceived objectivity criterion be respected? I do not know. I am saying this with all due respect for the individuals who sit in the Chair. I often sat in it myself. We are often put in tense and even conflicting situations. I invite my honourable colleagues to reflect on my comments.

It is my belief that the person who is in the Chair right now should not rule on the point of order raised by Senator Austin.

[English]

Senator Kinsella: Honourable senators, Senator Corbin has raised an interesting situation. When dealing with other types of issues, while the Speaker is taking time to reflect on the orderliness of the matter, the debate and the process continue. Perhaps under the circumstances, while awaiting the return of the Speaker, we should allow this bill to continue at second reading stage and perhaps further, depending upon how the Senate decides to deal with it. In that way, the point of order would not hold up the proceedings of the chamber on the matter. It would also help avoid the circumstance that Senator Corbin has brought to our attention.

Hon. Bill Rompkey (Deputy Leader of the Government): I wish to clarify the point of Senator Kinsella. Do I understood correctly that he is suggesting that debate should continue but that there should be no disposition of the matter until the Speaker returns and makes a ruling?

Senator Kinsella: Yes, in the same way as we do when there is a question of whether a Royal Recommendation is required. We often let the Speaker take time to study the matter while proceedings on the item continue.

Senator Di Nino: For clarification, unless we move this forward, that is what will happen in any event. Senator Austin has asked for a ruling from the Speaker. The item will stay on the Order Paper unless we move it forward.

I thought Senator Kinsella had said that, with the agreement of the other side, we would conclude second reading and send the bill to committee, but I do not think that is what was heard on the other side.

Senator Kinsella: I am suggesting that we just carry on with second reading debate. If the debate is concluded, there will be a vote taken on whether the bill is accepted at second reading. If it is accepted at second reading, a motion will be made to refer it to a committee. If someone moves the adjournment of the debate, and that meets with the pleasure of the house, the debate will be adjourned. If that does not meet with the pleasure of the house, which would be seen to be another delaying tactic, a vote will be taken on that issue.

Senator Austin: I am not prepared to ignore the point of order that I have presented to the chamber. That must be dealt with. I have no objection to the debate at second reading continuing, which is what I thought Senator Kinsella said in the first instance. If he is suggesting that we should send the bill to committee and await an academic or theoretical decision to come, that is not acceptable. The rules are real, and the rules should be applied.

It is my responsibility to ensure that the rules of this chamber are applied to our processes, which is why I raised this question. It is not a question of the government delaying. The government was operating on a legislative agenda that foresaw an election call before the end of February. There was more than adequate time to deal with this bill on its merits, if it is in order. The timetable has been dramatically altered by events in the other place. That is not an issue for which I will take responsibility.

To answer Senator Kinsella, we are doing our best to deal with bills sent to us by the other place that we know, because they sent the bills to us, the members of that place believe are in the public interest to review, examine and, hopefully, pass. However, we are doing so with public notice that the Leader of the Opposition in the other place will put a motion of non-confidence tomorrow. This is the reality, and it changes the dynamics of the time in which we can deal with various public matters.

Senator Di Nino: The Leader of the Government in the Senate said that we are dealing with bills that came from the other place which members of the other place believe are in the public interest. Is he suggesting that this bill, which passed by a comfortable majority in the other place with support from all parties, is not in the public interest?

Senator Austin: Honourable senators, I am only suggesting that this bill has to proceed in accordance with our rules. I have said that if the ruling is that the bill is not the same in substance as a bill with which this chamber has already dealt, then of course we would be prepared to proceed with the bill expeditiously. However, I do not believe that that is the case, and I believe our rules should be enforced.

It is not unusual for the Leader of the Opposition or the Deputy Leader of the Opposition to rise and argue for the enforcement of our rules. It may be slightly more unusual for the Leader of the Government to do so, but it is my obligation. Senator Di Nino: This order has been before us since June. Some members opposite responded, but no one presented the government view, or spoke in opposition to this bill to this time. There has been absolutely no response until now from those who may not wish to see this bill go forward.

As Senator Austin has said, and I have a great deal of respect for him, this bill came from the other place where it passed by a wide margin with all-party support, including a large numbers of supporters from his party. The bill is in the public interest and we should have dealt with it, but obviously the honourable senator believes otherwise.

Senator Austin: I am not addressing the merits of this bill and I am not asking for a ruling from the Speaker on its merits. I am asking that consideration be given to the point of order I have raised. After that, we can begin arguments on the merits of the bill.

Hon. Joan Fraser: Honourable senators, I wish to make two points. First, if my memory serves me correctly, Senator Plamondon spoke briefly but eloquently against this bill yesterday.

Second, the Leader of the Government in the Senate and Senator Corbin have both made very serious points. I do not know what the eventual ruling will be. I agree with Senator Corbin that we will place the Speaker *pro tempore* in a very difficult position if we ask her to make the ruling. However, I would like to focus on the fact that second reading is not an empty formality.

Sending a bill to committee is not an empty formality with which we can proceed while awaiting the ruling, regardless of whether it comes from the Speaker *pro tempore* or the Speaker. Second reading is a very important process. It indicates approval in principle of a bill. It is one of the most important things we can do, and it seems to me that, with an objection as substantive as that which has been raised by the Leader of the Government, we owe it to the integrity of the institution not to take that step until we have a ruling on the legitimacy of the bill. Debate is one thing, but I really do not think that the vote should occur until we have a ruling.

Debate suspended.

BUSINESS OF THE SENATE

The Hon. the Speaker pro tempore: Honourable senators, it being six o'clock, is it your wish that we not see the clock?

Hon, Bill Rompkey (Deputy Leader of the Government): I propose that we not see the clock.

Hon, Madeleine Plamondon: No.

The Hon. the Speaker pro tempore: Leave is not granted. I will leave the chair and return at eight o'clock this evening.

The Senate adjourned.

(2000)

The sitting resumed.

FIRST NATIONS COMMERCIAL AND INDUSTRIAL DEVELOPMENT ACT

FIRST READING

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons with Bill C-71, an Act respecting the regulation of commercial and industrial undertakings on reserve lands.

Bill read first time.

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the second time?

Hon. Tommy Banks: I move that the bill be read the second time at the next sitting of the Senate.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Hon. Terry Stratton (Deputy Leader of the Opposition): We, on this side, have been reasonably cooperative in the situation with which we are faced. We accept that some bills have to be fast-tracked for particular reasons. It was our understanding that four bills, in particular, were required, plus bills that were coming out of committee. Now we are being asked to fast-track two more bills and we have not been given substantial reasons for this, although we can understand the reasoning for the other four.

If John Lynch-Staunton were standing here today, you would get a 15-minute lecture from him on the rule requiring two days' notice for second reading. We believe that, unless a case can be made, we need two days. We are not being stubborn; this is the chamber of sober second thought, which is what we are here to provide. If we break that practice, when will it end? Governments of every party will get into the habit of pushing everything through at the last minute with one day's notice or less, which is wrong for the proceedings of this chamber.

I object, unless someone on the other side can tell me why this bill should proceed with only one day's notice.

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Stratton makes a valid point. The House of Commons has sent us Bill C-71, and I believe Bill C-57 will also be brought before us today. In addition, as honourable senators know, the other place has approved a ways and means motion that provides for personal and corporate tax reductions. Those two bills are not before us at the moment, but they could be while we are in session.

It is a matter of our understanding the public policy issues that are presented by legislation. It is absolutely true that as a chamber of review we would rather take the time to be careful in our work. It is also true that there are public constituencies in this country

that, having done a great deal of work with political parties in the other place to achieve legislative approval for certain proposals, are now hoping that their work was not in vain and will not be thrown away. It is in our discretion to decide what to do at this stage.

• (2010)

Bill C-71 is a First Nations-led initiative developed by a team of Aboriginal First Nations in Alberta, Saskatchewan, Ontario and British Columbia. To put it relatively simplistically, the bill essentially provides authority to a group of First Nations to make the regulations that they need to ensure that their economic projects can move forward.

As has been said in this chamber -

Senator Comeau: Is this a second reading speech?

Senator Austin: I have been asked for an explanation, and I believe that the request is proper because we are being asked to move this legislation forward quickly, and I think the chamber should know the public policy behind that request.

One of the real problems in the Aboriginal system is that a number of these communities do not have regulation-making capacity. The provinces cannot make regulatory provisions for them because they do not come under provincial jurisdiction. Therefore, there needs to be created a capacity through federal legislation to allow communities that wish to opt in to have the authority to make regulations that provide for economic security to lenders and investors with respect to economic projects.

That is the basic purpose of this bill, although it has other purposes. These communities have worked very hard to bring this legislation to this point in order to get on with the economic growth that our Aboriginal Affairs Committee has been working to bring to the attention of the Canadian public, something about which Senator St. Germain has spoken often.

Honourable senators, I would like the chamber to hear, at second reading debate tomorrow, the details of this bill and to make a judgment on whether there is sufficient urgency and common good for the Aboriginal community for us to move forward on it.

Hon. Terry Stratton (Deputy Leader of the Opposition): Did I understand correctly that there are two bills, or is there only the one bill?

The Hon. the Speaker pro tempore: There are other bills, but we are dealing with just this one.

Senator Stratton: If we agree to one day's notice, we would have speeches at second reading tomorrow, Thursday. Then the bill would go to the Aboriginal Affairs Committee. The Aboriginal Affairs Committee does not meet until Wednesday at 6:15, I believe. Therefore, if the government falls or the Prime Minister calls an election, it will not proceed. If we have second reading tomorrow, being Thursday, we would have to have a special meeting of the committee on Friday morning to report the bill back on Saturday.

Senator Austin: You are right, Senator Stratton. That would be the plan.

Senator Stratton: That would be the schedule. In other words, we would be standing on our heads to push something through that we have not even seen, and we would have essentially 24 hours to look at.

There are one or two more bills expected, perhaps tonight. The one that particularly worries me is the tax reduction bill, which we may get tomorrow. If we get it tomorrow, we will be asked to grant leave to have second reading immediately in order to get it through. In other words, we will be asked not only to stand on our heads, but to stand on our heads supported by one hand.

There is a point at which we have to say, for the sake of this chamber, that enough is enough, that we cannot do this. We owe a responsibility to this chamber to examine bills in the appropriate way, to study them thoroughly as they should be studied, because, as we have learned, the other place does not do that. For that reason, unless the leader can make his case in a better fashion, I see no reason to agree to one day's notice.

Senator Austin: Honourable senators, I do not dissent from the concerns that Senator Stratton expresses. This is not a comfortable process for us, but we are ultimately here as trustees for the Canadian people to act in their interest, and we cannot simply take an arbitrary decision that it is uncomfortable; it is rushed; we do not want to put ourselves out because we did not get the bill in an orderly way. We must look at each piece of legislation and make a public policy decision on whether it is in the interests of the Canadian public for us to deal with this issue.

The chamber has not brought on the time constraints under which the Parliament of Canada is now working. We must look at the legislation and we will only really understand it when it is presented at second reading.

With respect to the reference to the ways and means motion and the tax reduction legislation that flows from that, I would have to tell honourable senators that they would have to make a very serious case to this chamber not to give Canadians tax relief if the government proposes to do that.

[Translation]

Hon. Madeleine Plamondon: Honourable senators, is leave required to consider a bill tomorrow, or could an objection be raised? I raise an objection, and ask that the bill be considered at second reading two days hence.

[English]

Senator Banks: Honourable senators, I would like to add to what the Leader of the Government has said, although it is presumptuous of me to do so. I share the concern of Senator Stratton. I have said so loudly in other places and have sometimes made myself unpopular by so saying.

However, as the leader has said, no aspect of this problem is of our making. The impetus and the initiative for this bill come from the Aboriginal people. It does not create anything, as we will hear whenever we hear the speech of the sponsor of the bill at second reading. The impetus comes from those people, and it is to them that we will be doing a disservice if we do not deal with this bill.

The things contained in this bill are things for which the First Nations have asked. I know that we should not be crass and talk about dollars but, with respect, of the economic development that will accrue to the benefit of the First Nations involved. The cost of not proceeding with this legislation now will be a direct cost to them that will be measured in the billions. That is the scale of direct benefit to First Nations, which advantage will not simply be deferred. I am talking about the cost of deferred development in two specific areas.

Hon. Gerald J. Comeau: Honourable senators, I rise on a point of order. We are at first reading stage, if I understand correctly, and I believe that Senator Banks is into debate. I believe there was a motion on the floor.

Senator Austin: Yes, and we are debating it.

Senator Comeau: Oh, we are debating the motion.

The Hon. the Speaker pro tempore: Given the importance of the issue, we will listen to the rest of the senators who would like to have input on this matter.

Senator Banks: I will not say more, but I was not debating the bill. I was answering Senator Stratton's question about why we ought to proceed in an unusual way with this bill. I think there are good and cogent reasons in this case to do that.

• (2020)

Senator Plamondon: I thought that when I objected I was not granting leave and that was it. Are we still debating at this point even though I did not grant leave?

The Hon. the Speaker pro tempore: Senator Banks has moved that the bill receive second reading at the next sitting. Is leave granted?

Senator Stratton: Senator Plamondon has said no.

The Hon. the Speaker pro tempore: Leave is not granted.

On motion of Senator Banks, bill placed on the Orders of the Day for second reading two days hence.

BANK ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons with Bill C-57, to amend certain Acts in relation to financial institutions.

Bill read first time.

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the second time?

Hon. Bill Rompkey (Deputy Leader of the Government): At the next sitting of the Senate.

The Hon. the Speaker pro tempore: Is leave granted?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: Leave is not granted.

On motion of Senator Rompkey, bill be placed on the Orders of the Day for second reading two days hence.

INTERNMENT OF PERSONS OF UKRAINIAN ORIGIN RECOGNITION BILL

FIRST READING

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons with Bill C-331, to acknowledge that persons of Ukrainian origin were interned in Canada during the First World War and to provide for recognition of this event.

Bill read first time.

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the second time?

Hon. Marcel Prud'homme: Honourable senators, I would like to know how many more messages the Senate can anticipate to receive.

Hon. Jack Austin (Leader of the Government): This is a private member's bill.

Senator Prud'homme: I do not care. How many people will we apologize to and beg and plea with? This is becoming a farce.

As a senator, I want to be recorded as protesting very officially and violently. I never believed I would work in the Senate of Canada with a gun to my head or a knife to my throat being told to vote or else we will sit until midnight or on Saturday or on Monday. I do not care if we sit on Monday, if honourable senators so desire.

I want to know how many more surprises are in store so we can organize our minds, our agendas and our research. I do not know, but surely the Leader of the Government in the Senate is aware. I say that very courteously to the honourable senator. He is a member of cabinet. What are they up to?

We know there will be an election. Private member or not, I am sure the Leader of the Government in the Senate, with all due respect to my long-time friend since 1961, Mr. David Smith, surely the leader must know what is going on. What is going to happen? That is all I want to know.

Senator Austin: Honourable senators, I have stated already in this discussion that there are two government bills for which we were seeking the ability to move forward because of what we believed to be urgent public necessity. In addition, there is the possibility that the House may send us two tax reduction bills as a result of the approval of the ways and means motion today.

The bill the Speaker addressed is a private member's bill. I have no knowledge of what is coming from the House of Commons. It is not a matter of government policy with respect to private member's bills.

Senator Prud'homme was in the House of Commons, and they are sending us bills. If we listen to the Speaker, we will know how many bills there are and what they are about.

The Hon. the Speaker pro tempore: When shall this bill be read the second time?

Hon. Terry Stratton (Deputy Leader of the Opposition): Since we have a strange way of presenting bills, and I realize government bills must be presented first, I move that the bill be read the second time at the next sitting.

Senator Austin: Second reading on what? Why make an exception for this bill? Explain the reason.

Senator Kinsella: We like the bill.

Senator Austin: We like the other bills.

Senator Plamondon: Leave is not granted.

The Hon. the Speaker pro tempore: We have not asked for leave yet, Senator Plamondon.

Hon. Francis William Mahovlich: I would like to bring to the attention of honourable senators that all of these bills have been approved by all parties in the House of Commons.

The Hon. the Speaker pro tempore: Is leave granted?

An Hon. Senator: No.

The Hon. the Speaker pro tempore: When shall this bill be read the second time?

Senator Forrestall: Shortly after I get my lighthouse bill.

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the second time?

It is moved by Senator Kinsella, seconded by the Honourable Senator Stratton, that this bill be placed on the Orders of the Day for second reading two days hence.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Stratton: I object to being recorded as the seconder. I wanted the bill read the second time at the next sitting. If it is to be two days hence, please identify someone else.

The Hon. the Speaker pro tempore: Senator Andreychuk? Senator LeBreton? Senator Comeau?

Senator Comeau: No.

The Hon. the Speaker pro tempore: Senator Plamondon? We have Senator Plamondon seconding the bill.

On motion of Senator Kinsella, bill placed on the Orders of the Day for second reading two days hence.

EXCISE TAX ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Keon, for the second reading of Bill C-259, to amend the Excise Tax Act (elimination of excise tax on jewellery).

—(Honourable Senator Rompkey, P.C.)

The Hon. the Speaker pro tempore: We are now resuming debate on the point of order that was before us at six o'clock. Do any other senators wish to speak to this issue?

Hon. Madeleine Plamondon: Honourable senators, someone said that I spoke against the bill, but I only made a comment. I did not speak against Bill C-259. I wanted to make that clear.

SPEAKER'S RULING

The Hon. the Speaker pro tempore: Honourable senators, when the second reading of Bill C-259 was reached today, the Leader of the Government in the Senate raised a point of order questioning the propriety of proceeding to the resumed debate on this bill. Citing several rules, decisions and authorities, Senator Austin argued the case that Bill C-259 should not be allowed to proceed. Other senators also spoke to the matter contesting the proposal that debate on the bill should not continue.

I wish to thank honourable senators for the views that were expressed on this point of order. I have considered the arguments that were made and have reviewed the matter sufficiently to make a ruling which I am prepared to give now. In making this decision, I am exercising the authority granted to me under rule 11 and rule 12 of the *Rules of the Senate*, and this authority is no different in its effect and validity than that of the Speaker.

• (2030)

Rule 63(1) stipulates, in part, that "A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative..."

The point of order that has been raised deals with the suggestion that Bill C-259, which deals with the elimination of the excise tax on jewellery, is substantially the same as Bill C-43, a budget implementation bill that was enacted by Parliament last June. To make the case, it should be possible to identify the subject matter or clauses in both bills that address the same subject.

Bill C-43, which is now chapter 30 of the Statutes of Canada, 2005, contains an amendment to Schedule I of the Excise Tax Act that will phase out the excise tax on jewellery through a series of rate reductions over the next four years. Among the items to be affected by this tax change are articles of all kinds made of various materials, including ivory, coral, jade, onyx and semi-precious stones. Other items to benefit from this tax reduction include personal objects made of real or artificial diamonds, as well as gold and silver jewellery.

Of particular interest for the purposes of this point of order is the tax reduction that will be given to clocks. Chapter 30 specifies that the phase-in tax reduction will apply to the following items when their value exceeds \$50:

Clocks and watches adapted to household or personal use, except railway men's watches, and those specially designed for use of the blind.

Bill C-259 is a one-clause bill that provides an immediate 10 per cent reduction for

Clocks adapted to household or personal use, except those specially designed for the use of the blind ...

if their sale price or duty-paid value exceeds \$50.

There is little doubt that these two clauses resemble one another, but they are also different in certain critical respects. The question to be determined is whether they are sufficiently the same to disallow further consideration of Bill C-259 or whether they are sufficiently different to allow Bill C-259 to proceed.

In seeking to answer this question, it should be noted that practice has changed over the years to accommodate the reality of extended sessions that continue through several years. This change has had the consequence of requiring a greater degree of similarity between two items before a bill or other business will be ruled out of order on the basis of the "same question rule."

With respect to this issue, I refer honourable senators to page 898 of Marleau and Montpetit. In a ruling by Speaker Fraser made in 1989, with respect to items proposed by private members, that is with respect to items not proposed by the government, the Speaker explained that for two or more items to be substantially the same, "they must have the same purpose and they have to achieve their same purpose by the same means." I am prepared to take this approach as a guide to the consideration of similar items, whether they are sponsored by the government or by senators.

In taking this position, I am also mindful of British practice, which is very clear. *Erskine May* states at page 580 of the twenty-third edition: "There is no rule against the amendment or the repeal of an Act of the same session."

Bill C-259 amends the application of the excise tax on clocks at an accelerated rate in comparison to the proposal enacted through the budget implementation bill adopted earlier this year. The means, therefore, are not the same. If the Senate adopts this bill and it is made law by Royal Assent, it will have the effect

of changing the rate of tax reduction now in place through the enactment of Bill C-43. I do not regard this measure to be the same, based on the criteria established by the decision of Speaker Fraser. The same end is not achieved by the same means. The two measures are substantially different, and I am prepared to rule that debate on Bill C-259 can continue.

Resuming debate, Senator Stratton.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I should like to move second reading.

The Hon. the Speaker pro tempore: Is the house ready for the question?

An Hon. Senator: Question!

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Di Nino, seconded by the Honourable Senator Keon, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Stratton, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

STUDY ON INTERNATIONAL OBLIGATIONS REGARDING CHILDREN'S RIGHTS AND FREEDOMS

INTERIM REPORT OF HUMAN RIGHTS COMMITTEE ADOPTED

On the Order:

Resuming debate on the consideration of the nineteenth report (interim) of the Standing Senate Committee on Human Rights, entitled: Who's in Charge Here? Effective Implementation of Canada's International Obligations with Respect to the Rights of Children, tabled in the Senate on November 3, 2005.—(Honourable Senator Rompkey, P.C.)

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, on behalf of Senator Andreychuk, chair of the Standing Senate Committee on Human Rights; Senator Carstairs, the deputy chairman; and particularly in honour of Senator Landon Pearson, I move that the nineteenth report of the Standing Senate Committee on Human Rights tabled in the Senate on November 3, 2005, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Foreign Affairs, the Minister of Justice and the Attorney General of Canada, and the Minister of Canadian Heritage being identified as ministers responsible for responding to the report.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Stratton, seconded by the Honourable Senator LeBreton, that this report be adopted. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

STUDY ON PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY

INTERIM REPORT OF AGRICULTURE AND FORESTRY COMMITTEE ADOPTED

On the Order:

Resuming debate on the consideration of the seventh report (interim) of the Standing Senate Committee on Agriculture and Forestry, entitled: Cattle Slaughter Capacity in Canada, tabled in the Senate on May 19, 2005.—(Honourable Senator Fairbairn, P.C.)

Hon. Joyce Fairbairn: Honourable senators, I am glad to have a final word on the state of our cattle industry, as outlined in the report tabled in this house last May by the Standing Senate Committee on Agriculture and Forestry. As all of us know, never has our industry taken a blow as devastating as the discovery of the existence of bovine spongiform encephalopathy, BSE, in the remains of an animal in Alberta in the spring of 2003. This discovery caused countries around the world to slam their doors against our cattle and beef, with none more painful than the border closure by the United States of America. I will not go into the well-known details and profound frustration, if not fear, which followed that event, other than to note that the manner in which this country responded to the crisis at every level has resulted in a gradual reopening of several of those borders, one by one. Last week, the United States Department of Agriculture indicated that it is putting the finishing touches on a rule that will lift the remaining restrictions on Canadian beef sometime next year. That rule will cause barriers to go down, enabling North American products to move freely among many other countries such as Japan. Canada and all of its trading partners will be wiser and safer as a result of lessons learned during those three difficult vears.

• (2040)

Throughout this period, our committee has produced two reports, based on some of the most productive hearings I have participated in during my 21 years sitting with that committee. I want to thank all of the members, and particularly our former chair, Senator Len Gustafson, and Senator Don Oliver, for their leadership in difficult times.

This last report came out soon after the American judicial process, as a result of a court case in Montana, ruled that the border between the U.S. and Canada remain closed, even though the American government, from the president down, was strongly supportive of bringing down the barriers because of our mutual science-based agreements on elements of protection that would govern the health and well-being of the cattle and the process between our two countries. Our committee was holding meetings in Washington on that day, last March 2, when the judgment to keep the border closed was announced in Montana, and we have followed the process closely ever since. All of us profoundly hope that the latest announcement of firm action by the American government will produce a positive conclusion in the New Year.

However, in the meantime, we have moved forward in Canada with ever-increasing cooperation between all levels of government and the industry, working closely together as never before, along with the Canadian people, who have risen to the challenge and consumed even more beef since the border closure paralyzed the trade and forced every part of the industry and government to creatively prepare for that reality.

Our committee is pleased to note that some of our proposals have been followed and, indeed, changes in the system made, stemming from suggestions from witnesses while our hearings were in progress. First among our recommendations was that the industry shift from being live cattle oriented to becoming meat and processed product oriented, which meant an immediate increase in Canadian-based meat processing capacity, a capacity which over the years had dwindled across this country so that most of the domestic processing was done out of two large multinational slaughterhouses in Alberta.

However, as packing plants in the United States began to stop production and lay off workers, in Canada our packing industry responded quickly to the new market conditions, principally by building domestic slaughter capacity, which increased from less than 3.5 million animals in 2003 to nearly 4.5 million by April of this year. At the time of our report, the U.S. border was still closed to all live cattle and meat from animals older than 30 months. Fortunately for our producers, the situation has changed and, since last July, producers have been able to ship livestock under 30 months across that border for feeding and slaughter.

During our hearings, many witnesses stated that confronting U.S. competition when the border fully reopens would be their next major challenge. However, if we learn from this crisis, returning to the same traditional dependence on exports of live cattle is not really the only option for the long-term sustainability of Canada's beef industry. Canadian packing capacity is still growing and is expected to reach 4.9 million animals annually by next month, up from 4.5 million in June of this year.

I feel very strongly, as did all members of our committee, that our challenge is to enhance our slaughter capacity to the point where our producers, feeders, processors and truckers will never again be held hostage to another border closing.

It is true that the consolidation of our meat-packing industry has allowed our processors to increase efficiency and profitability, and enabled the industry to compete internationally. However, consolidation is not the only option. There is also room for smaller packing plants if they can secure their supply of cattle, raise adequate start-up capital and target special niche markets in response to consumer desires at home and abroad.

Through the emergence of these smaller-scale plants, the government could give more power to producers, and they in turn would have more options when they market their livestock and would be able to move up that value chain, a direction which we strongly recommended in an earlier committee report on the value-added processes in agriculture. We want a restructured industry where small-scale plants can thrive alongside consolidated, commodity-based processors to the benefit of cattle producers. I am told that some 17 plants have been built or are in the negotiation period at this time.

We called for more flexibility in federal financial assistance programs for new plants, for plant expansions, and farmer-owned co-ops. We asked government to enhance the existing loan loss reserve program with a matching capital program to address the need for start-up capital. On October 25, we were pleased to learn of the Federal Ruminant Slaughter Equity Assistance Program, under which Agriculture Canada and Agri-Food Canada will contribute up to one half of a producer's investment in a federally registered slaughter capacity.

Clearly, in addition to adequate start-up capital, sound business plans are crucial to the sustainability of new packing capacity, and we suggested that the government allocate funds to enable farm groups to obtain that guidance and get going. Again, we were pleased on August 17 when the government announced a \$1 million Ruminants Slaughter Facility Assessment Program to help producer-led groups undertake the preliminary assessment for developing viable slaughter operations.

The committee wanted to ensure that new packing companies have the capacity to meet the highest standards of food safety and that the government work closely to ensure that there be no undue bureaucratic roadblocks in meeting those standards as we had heard from witnesses. By the time we had issued our report, the Canadian Food Inspection Agency, with an allocation of new resources, had already made a number of improvements to streamline and regionalize the process.

We want those new plants to thrive in the best operating environment possible, and the industry faces a rather peculiar challenge under which the current standard for interprovincial trade in meat products is the same as for foreign export trade in those products. Although Canada's provincial packing capacity is relatively small, we asked that the Canadian Food Inspection Agency undertake a legislative review leading to proposals for changes to the relevant acts and regulations in order to develop a domestic standard that will allow trade in meat products among the provinces. Naturally, such a change would have to be carried out with due consideration of all international trade implications, but we hope that that can be managed.

Another recommendation, which already is being tested, is the traceability of food products from the farm of origin to the dinner plate, a process that will become required more and more in world markets. As we heard earlier in Senator Callbeck's speech,

Atlantic Beef Products Inc., which is already operating in Prince Edward Island, has obtained funds from Agriculture and Agri-food Canada and the Atlantic Canada Opportunities Agency to implement a full traceability system for its products. The viability of those results may well lead to development of a traceability program across this country, and we would recommend that the Canadian Food Inspection Agency be given the resources to allow the industry to have such systems in place by 2010 in order to keep our industry ahead of its competitors.

• (2050)

Because of the international respect that Canada has gained with regard to food safety requirements and testing, the committee feels it is important that the federal government facilitates the work of meat-packing plants in terms of quick access to procedures like hot-boning and the removal and disposal of bovine specified risk materials in an environmentally responsible way.

We also hope that Agriculture Minister Mitchell will be able to successfully review Canada's regulations on a continuing irritant that is bothering a vocal group of United States producers concerning our import requirements related to blue tongue and anaplasmosis, two other existing diseases that affect cattle. This is not our issue; it is their issue and it would be helpful to get it out of the way.

To date, our country has faced an unexpected nightmare with courage and innovative thinking among federal and provincial governments, and on the ground through small communities whose very existence rested on a continuing future based on the cattle industry — the ranchers, the feedlots, the packing plants, the truckers — all of which come together in my corner of south western Alberta. Certainly, that closed border, which from Lethbridge we can see on a clear day, along with the mountains, has struck fear in the hearts and minds of those who live in the small towns and villages surrounding our cities. Without this basic industry and the commerce it produces, the future of this historic area, and others all across this country, is in grave danger of drifting away; and we are by no means alone in Alberta.

We are proud of our cattlemen and all they represent. We are glad they are now sitting around the tables in Ottawa contributing to the decisions that have been made within government.

We fully support the federal initiative announced last March of a \$50-million contribution to the Canadian Cattlemen's Association Legacy Fund to launch an aggressive marketing program to reclaim and expand markets for Canadian beef. The federal government must work hand in hand with industry to further enhance our packing capacity in Canada. Not only will our cattle industry benefit, these measures will also help revitalize rural communities and increase employment, bringing benefits that will be felt all across our society and our economy.

We are proud of the manner in which all levels of government have put aside disagreements and worked warmly and closely together, not just in Alberta but in every part of Canada that has been touched by this issue. Our committee, of which I am very proud, has worked hard to act as a connecting link between those on the ground and those in the government who have come before us as witnesses. I am enormously thankful to each one of them, the thought and the effort which our senators offered brought the voices of the regions into that committee room. We profoundly hope we will not have to face this particular crisis again, but honourable senators, we will be ready for whatever comes our way.

In conclusion, I would move that this report be adopted by the Senate.

Hon. Senators: Hear, hear!

The Hon. the Speaker pro tempore: Senator Fairbairn, are you moving the adoption of the report?

Senator Fairbairn: Yes.

The Hon. the Speaker pro tempore: I am sorry, I did not hear you. It is moved by the Honourable Senator Fairbairn, seconded by the Honourable Senator Mahovlich, that this report be adopted. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

TELECOMMUNICATIONS ACT

BILL TO AMEND—REPORT OF COMMITTEE— REOUEST FOR GOVERNMENT RESPONSE

Leave having been given to revert to Reports of Committees,

Resuming debate on the consideration of the nineteenth report (interim) of the Standing Senate Committee on Human Rights, entitled: Who's in Charge Here? Effective Implementation of Canada's International Obligations with Respect to the Rights of Children, tabled in the Senate on November 3, 2005.

The Hon. the Speaker pro tempore: Honourable senators, with your permission, I would like to return to Reports of Committees, No. 1. When Senator Stratton moved the adoption of Senator Andreychuk's report, he asked that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Foreign Affairs, the Minister of Justice and the Attorney General of Canada, and the Minister of Canadian Heritage being identified as ministers responsible for responding to the report. I neglected to add that particular part to the question, that we are asking the government to respond, and I apologize.

Is it your pleasure to adopt that part of the report?

Hon. Senators: Agreed.

[Translation]

INFLUENCE OF CULTURE

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Leger calling the attention of the Senate to the importance of artistic creation to a nation's vitality and the priority the federal government should give to culture, as defined by UNESCO, in its departments and other agencies under its authority.—(Honourable Senator Champagne, P.C.)

Hon. Andrée Champagne: Honourable senators, on my very first day in the Senate, as luck would have it, one of the items on the Order Paper was the importance of culture in the life of a country. I will come as no surprise to you that I wanted to take part in the debate arising from Senator Léger's inquiry.

[English]

It has been said that luck is preparation meeting opportunity. I am quite prepared to speak about culture, and I thank you for the opportunity. I guess that makes me lucky.

I do believe that it is of the utmost importance that all of us who are fortunate enough to sit in this chamber do our best to foster all aspects of our Canadian culture. Our culture makes us who we are. It also determines who our children are, and what our grandchildren will become.

[Translation]

To complement the points made by the three honourable senators who spoke before me, I have chosen to address a somewhat more down to earth aspect of the lives of our artists, whatever the artistic discipline to which they devote their energy. I can only hope that you will conclude with me that, if the Senate decided to conduct an in-depth review in the field of culture, we could certainly make a useful contribution, provided, of course, that the government then lent us an attentive ear and sympathetic consideration.

Arts, culture and cultural industries play an important part in our society. In 2001, spin-offs from this sector neared \$38 billion, or 3.8 per cent of our GNP. It accounted for more than 600,000 jobs; that is more than 4 per cent of our labour force.

However, total government spending in the same sector totalled \$7 billion, the lion's share going, as we all know, to Radio-Canada/CBC. I will come back to that a little later in my remarks.

[English]

Honourable senators, what do artists and artisans need to survive, to succeed? Of course they need talent, but perseverance is also an important ingredient. Most of all, they need hope. Hope is their muse, and as long as their hope is alive, we all benefit.

Now where do artists and artisans find hope? In my experience, there are three main sources. First, they believe in tomorrow, when they perform; when they have the opportunity to create, to be recognized, then they have hope.

Allow me to give a small example of how we can so easily destroy their will to create. Artists and artisans are proud when credits are properly shown at the end of a production. They are hurt when, at the end of a film or a television program, a network chooses to split the screen and use the better half to promote an upcoming production, making the artists' names impossible to read. The hope of being recognized as professionals is crushed.

• (2100)

Second, like anyone else, artists believe that their work allows them to feed themselves and those who depend on them. They rely on television networks, theatre companies, film producers, art galleries, editors, concert goers and, yes, patrons. To survive they often have to create their own job opportunities. They might have to risk capital that they do not have, but then they have hope.

[Translation]

In addition to talent, artists must also have perseverance. The hard times must one day end or else, after starving for too long, artists have no choice but to do something else. This happens quite frequently, all too frequently, in fact. And it is our great loss. I want to give a few examples.

Pablo is a magnificent tenor with a great stage presence. Originally from Venezuela, he is a new Canadian and speaks five languages. He graduated from McGill. Today, if you travel abroad, he may be the one serving you coffee at 12,000 metres. He could just as easily sing you La Donna e mobile or, since you are in space, E lucevan le stelle.

Anaïk is a mezzo-soprano with such a rich range that we are reminded of Maureen Forrester. She graduated from Julliard, in New York. Since her return to Canada, she has been running a small translation company.

Five years ago, Isabelle won the International Stepping Stone Competition, the top competition in all categories in Canada. Today, she teaches saxophone at a college in Montreal.

Finally, I want to tell you about Marjolaine, a fine watercolorist who has had a number of showings. Today, she works for a digital marketing company. She almost never takes out her paints and brushes any more. These artists are in their early thirties. Sad? Yes, to the point of tears!

Third, there is hope for our artists when they believe that we are preparing the next generation and that we are setting aside sufficient funding.

Before every show, young painters must buy their colours and canvas, and just the frame for their work costs a fortune. What about the materials that sculptors need? Musicians and singers need to buy scores, and naturally we are not going to encourage photocopying. Writers of novels or plays still have to pay the rent and eat. Yes, the Canada Council helps, but it cannot meet all the needs.

In 2004, the annual cost of the Canada Council was \$4.77 per Canadian. That funding represented 0.1 per cent of the government's overall spending. It allows our major performing arts companies to count on government assistance for 25 per cent of their revenues. Meanwhile, their counterparts elsewhere were receiving the following amounts: U.K. 53 per cent; France 97 per cent; Australia, 40 per cent. Might one conclude that Canadian governmental assistance to the performing arts makes us look like the poor relatives?

Could we not, as individuals and as a nation, do better than that? One might perhaps suggest a small percentage of some of that budget surplus. Art and artists are a good investment.

[English]

Fortunately, Canada has a few devoted art patrons. Their help is so precious to young artists. Finding new ways to encourage these generous people to help young artists would be a most valuable task for honourable senators. Recently, Montreal became the recipient of the marvellous new Schulich School of Music at McGill University. That same week, I read about a rich American who spent the equivalent to that cost, \$20 million, to fly in a Russian spaceship. Mr. Schulich, you make me proud to be Canadian.

Others truly try to bring good music to ears that would not otherwise feel that soothing pleasure with the help of the Canada Council, provincial funding, the Musicians' Performance Trust Fund and a few private sponsors. George Zuckerman has organized tours to the farthest communities in our country. I know that over the last three years, he and three other musicians have visited almost every school in Nunavut and Nunavik. With proper funding, this kind of entertaining workshop could be held in every school in Canada, and why not?

[Translation]

Far be it from me to deny our government the right to participate in the cultural field. Of all the moneys invested in culture, we all know that a large portion of it goes to our libraries and museum, and CBC and Radio-Canada take a big chunk of it. But I am worried.

What help does that network, particularly the French side, give to culture and to our artists today? Over the years, Radio-Canada has made an amazing about-face. It used to produce theatre, concerts, ballets, opera — its live broadcast of the Barbier de Seville won an Emmy in New York City — and now it has totally abandoned its cultural mission and bowed to market forces. Our future stars disappeared when Singing Stars of Tomorrow was done away with, and it was up to the private networks to pick up the slack with Star Académie and Canadian Idol. Without a helping hand from radio and television, where will the next generation in our concert halls, our museums, our art galleries, our libraries come from? Where will our young people learn about music, about opera, if not by beginning to pay attention to the lyrics of a song?

Radio has been no better. Even with two FM stations, promoting young Canadian artists is no longer one of Radio-Canada's goals.

Not so long ago, Radio-Canada built professional sound studios filled with expensive instruments. Today, these studios are silent, and the instruments covered in dust. Barely 15 years ago, seven and a half hours a week were devoted to introducing our artists. None of these programs have survived.

However, they were an opportunity for young instrumentalists and young singers to make a name for themselves. A recital on Radio-Canada often resulted in a public concert in Winnipeg, Calgary, Vancouver and vice versa. Music is the only language without borders. Young artists gained experience and, in down to earth terms, they were able to pay their rent and eat a bit better and little more often.

This created generations of artists who lived well and had an excellent national career, from coast to coast. But above all, we gave them hope.

In the twenty-first century, these same time slots are filled by five or six people playing CDs and, without any warning of any kind, a Mozart quartet ends just as Loco Locass begins. This show is called *Espace musique*. It comes as no big surprise then that nearly 60,000 people have already signed a petition asking the CRTC for a Canadian cultural radio station.

[English]

Honourable senators, as I close my first contribution to our house, allow me to reaffirm my complete devotion to culture in our everyday life and my love for those who need our help so that they can create in peace. Honourable senators, if we only try, we can uncover ways to make our government do more and do better to encourage the arts, the artists and their devoted patience. We must find new ways, which we can do and will do.

• (2110)

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I am very pleased to get into some debate. I will provide some historical background. When the Right Honourable Jean Chrétien left the Liberal Party in 1986, the Right Honourable John Turner appointed me to replace him as the official foreign affairs critic. My career was very long. After an intense discussion with him following a phone call with Mr. Milton Harris from Toronto, I negotiated my departure from my appointment as foreign affairs critic, which was my lifelong dream. I told you I would recount my memoirs here and not write them. I agreed to become the arts critic appointed by Mr. Turner. I had always been a faithful servant to this great party that I loved and I became the arts critic. I remember very clearly informing the Right Honourable Prime Minister Brian Mulroney in my first speech. I told him: "Tomorrow I am going to beat up — pardon the expression — your Minister of Culture, Marcel Masse". My speech lasted an hour. Your comments remind me of my responsibilities. You pointed that out quite well.

I am keeping the rest of my time to better prepare myself in an intelligent manner. I do not have the staff available to me that the large political parties might have, but I will reiterate what I said in

my speech in 1986 or 1987 when I said that Canadians are ignorant not to realize the importance of culture and job creation at little cost to the public. You touched on this point in particular. I am going on memory.

I was appointed and relieved, with my consent, of the duties that were my lifelong dream, and agreed like a good servant to serve as the arts critic.

With leave of the Senate, I would like to adjourn this very important debate in our country, first in terms of the importance of culture in every respect for our national identity and, second, in terms of job creation.

Senator Champagne: Honourable senators, I would like to add to what Senator Prud'homme said. If you bother to read what my female colleagues have said because, until now, only women had spoken on this issue, you will see that we really chose to talk about culture, about the beauty of culture in a country. After spending 50 years immersed in the world of culture, I decided to use the somewhat more down to earth side of things to explain what the life of an artist is really like. That was my choice.

On motion of Senator Prud'homme, debate adjourned.

ASSASSINATION OF LORD MOYNE AND HIS CONTRIBUTIONS TO BRITISH WEST INDIES

INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cools calling the attention of the Senate to:

- (a) November 6, 2004, the sixtieth anniversary of the assassination of Walter Edward Guinness, Lord Moyne, British Minister Resident in the Middle East, whose responsibilities included Palestine, and to his accomplished and outstanding life, ended at age 64 by Jewish terrorist action in Cairo, Egypt; and
- (b) to Lord Moyne's assassins Eliahu Bet-Tsouri, age 22, and Eliahu Hakim, age 17, of the Jewish extremist Stern Gang LEHI, the Lohamei Herut Israel, translated, the Fighters for the Freedom of Israel, who on November 6, 1944 shot him point blank, inflicting mortal wounds which caused his death hours later as King Farouk's personal physicians tried to save his life; and
- (c) to the 1945 trial, conviction and death sentences of Eliahu Bet-Tsouri and Eliahu Hakim, and their execution by hanging at Cairo's Bab-al-Khalk prison on March 23, 1945; and
- (d) to the 1975 exchange of prisoners between Israel and Egypt, being the exchange of 20 Egyptians for the remains of the young assassins Bet-Tsouri and Hakim, and to their state funeral with full military honours and their reburial on Jerusalem's Mount Herzl, the Israeli cemetery reserved for heroes and eminent persons, which state funeral featured Israel's Prime Minister Rabin and Knesset Member Yitzhak Shamir, who gave the eulogy; and

- (e) to Yitzhak Shamir, born Yitzhak Yezernitsky in Russian Poland in 1915, and in 1935 emigrated to Palestine, later becoming Israel's Foreign Minister, 1980-1986, and Prime Minister 1983-1984 and 1986-1992, who as the operations chief for the Stern Gang LEHI, had ordered and planned Lord Moyne's assassination; and
- (f) to Britain's diplomatic objections to the high recognition accorded by Israel to Lord Moyne's assassins, which objection, conveyed by British Ambassador to Israel, Sir Bernard Ledwidge, stated that Britain "very much regretted that an act of terrorism should be honoured in this way," and Israel's rejection of Britain's representations, and Israel's characterization of the terrorist assassins as "heroic freedom fighters"; and
- (g) to my recollections, as a child in Barbados, of Lord Moyne's great contribution to the British West Indies, particularly as Chair of the West India Royal Commission, 1938-39, known as the Moyne Commission and its celebrated 1945 Moyne Report, which pointed the way towards universal suffrage, representative and responsible government in the British West Indies, and also to the deep esteem accorded to Lord Moyne in the British Caribbean.

 —(Honourable Senator Prud'homme, P.C.)

Hon. Marcel Prud'homme: I do not want to deprive Senator Goldstein of his time. I will offer my comments on this very important motion in due course. I like to be the one to calm the storm. I will keep my comments for later; after all, this is only the eighth day on the Order Paper. So I would ask to have this matter stand.

Order stands.

PROVINCE OF ALBERTA

INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Mitchell calling the attention of the Senate to the Province of Alberta and the role it plays in Canada. —(Honourable Senator Prud'homme, P.C.)

Hon. Marcel Prud'homme: Honourable senators, once again, everyone knows my attachment to Alberta. Those who understand this attachment to Quebec and Alberta, understand that this is real federalism.

[English]

It is federalism at its best. Ottawa is only a servant of the creator. I would like Senator Mitchell to be here when I make my speech to celebrate my joy at being a French Canadian from Quebec who is a friend of Alberta. Therefore, I ask that the order stand.

Order stands.

[Translation]

INTER-PARLIAMENTARY UNION

INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Fraser calling the attention of the Senate to the work of the IPU.—(Honourable Senator Prud'homme, P.C.)

Hon. Marcel Prud'homme: Honourable senators, I have become the unpaid advisor to all the inter-parliamentary associations, and I have a great deal to say about this, particularly with regard to the Inter-Parliamentary Union, which I have always found problematic. So, I want to stand the debate in order to restore a sense of calm, but I will not be very kind when the time comes to continue my remarks.

Order stands.

[English]

NEED FOR INTEGRATED DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Andreychuk calling the attention of the Senate to the need for a strong integrated Department of Foreign Affairs and International Trade and the need to strengthen and support the Foreign Service of Canada, in order to ensure that Canada's international obligations are met and that Canada's opportunities and interests are maximized.—(Honourable Senator Andreychuk)

Hon. A. Raynell Andreychuk: Honourable senators, in light of the political climate, I simply wish to adjourn the matter in order to rewind the clock.

The Hon. the Speaker pro tempore: Is that agreed, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Andreychuk, debate adjourned.

THE SENATE

MOTION TO URGE GOVERNMENT TO REDUCE CERTAIN REVENUES AND TARGET PORTION OF GOODS AND SERVICES TAX REVENUE FOR DEBT REDUCTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella seconded by the Honourable Senator Stratton:

That the Senate urge the government to reduce personal income taxes for low and modest income earners;

That the Senate urge the government to stop overcharging Canadian employees and reduce Employment Insurance rates so that annual program revenues will no longer substantially exceed annual program expenditures;

That the Senate urge the government in each budget henceforth to target an amount for debt reduction of not less than 2/7 of the net revenue expected to be raised by the federal Goods and Services Tax; and

That a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.—(Honourable Senator Day)

Hon. Joseph A. Day: Honourable senators, I will take a cue from my colleague opposite. Much has been happening in the last 15 sitting days since I took the adjournment on this matter. I ask honourable senators to allow me to adjourn the matter and rewind the clock.

The Hon. the Speaker pro tempore: Is it agreed to rewind the clock, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Day, debate adjourned.

(2120)

[Translation]

YEAR OF THE VETERAN

CONTRIBUTIONS OF ABORIGINAL VETERANS—INQUIRY—DEBATE ADJOURNED

Hon. Aurélien Gill rose pursuant to notice of November 22, 2005:

That he will call the attention of the Senate to the occasion of the Year of the Veteran and to the contributions of Aboriginal veterans.

He said: Honourable senators, I know it is late and everyone is tired. I will, with your indulgence, attempt to proceed as quickly as possible. I have a duty to transmit this important message to you this evening.

Honourable senators, as you are no doubt aware, the Government of Canada declared 2005 to be the Year of the Veteran, with its culminating point being Remembrance Day on November 11.

As part of the important official events during this year of commemoration, the Department of Veterans Affairs, under the Honourable Albina Guarnieri, organized ceremonies in Belgium and in France between October 24 and November 3 to honour the memory of aboriginal soldiers who lost their lives in the tragedies of the first and second world wars.

I had the privilege and honour to be part of the Canadian delegation, along with Her Excellency the Governor General, Minister Guarnieri, and a number of representatives of Canada's aboriginal peoples: veterans, elders, artists, young people and representatives of several aboriginal organizations and members of the press.

I must admit that I felt a great deal of satisfaction at having been able to take part in these days of commemoration as a senator. I would like to thank the Leader of the Government in the Senate. In a way, that trip was an opportunity for the Canadian State to recognize officially, properly authorized by the Minister of Veterans Affairs, the aboriginal contribution to the Canadian Armed Forces.

Sixty years after the events, Canada finally paid tribute to the sacrifice of the several thousands of my Aboriginal fellow citizens who died in action, most of whom had enrolled voluntarily, knowing full well what they were getting into, to defend freedom against unbridled tyranny.

As an Aboriginal, I have to say openly that I am proud of having been part of such a group of individuals fully deserving of the tribute they were paid. It was high time that the outstanding valour of Aboriginal veterans, who have shown a remarkable sense of responsibility for the well-being and freedom of nations, be recognized.

Today, I take advantage of these ceremonies overseas, ceremonies which are filled with memories and strong emotions, to draw attention to and update, on behalf of all my people, and paraphrasing Martin Gray in so doing, the irreplaceable and all too often ignored contribution of historical Canada's First Peoples.

I would like to tell you, honourable senators, about the true meaning of the sacrifice made by both my Aboriginal and non-Aboriginal fellow countrymen in the wars. In combat, the bonds between all soldiers were close. They were indeed all equal on the battlefield and equal before death. But when they came home, it was a different story. Many Aboriginals were not even considered Canadian citizens. In many cases, an Aboriginal soldier dying in action meant nothing more, nothing less than falling into complete oblivion. Many of those who came home were not paid any compensation for services rendered.

Allow me to quote Charlie St. Germain, age 81, born in Alberta, who served with the Calgary Highlanders in France, Belgium, Holland and Germany during the war of 1939-45.

[English]

Coming back here hurts me more than anything else I've ever done.

All this being done now. Why wasn't anything done back then? Why wait so long? There's a hell of a lot of them that are now dead. Uncles, fathers, brothers are all gone and they didn't see this. Lost souls. In our thoughts and beliefs, it would have been taken care of long ago.

We joined freely, they didn't have to draft us. They should have given us more considerations. Over here we didn't feel any sense of differences between White, Metis and First Nations. Why were we treated so differently when we got home?

Some got nothing when they were discharged. If you looked Indian they said to apply to Indian Affairs and was turned down. Indians never got more than their Treaty Land. I gave so much to the war. I lost my brother and I got nothing. Three hundred dollars at my discharge, nothing more. I couldn't even join the legion. Some Metis could if they looked white enough. I need dental work done and they won't pay. They won't pay for all my glasses charges, my new frames I needed.

[Translation]

These comments speak for themselves. Some political ideologies are softer than others, but are nonetheless full of segregation, exclusion or assimilation.

Fortunately, Canada has changed for the better. It is my firm intention to stay positive with a strong vision for the future. But I would be remiss if I did not repeat loud and clear how necessary and urgent it is to do everything possible for Aboriginals in Canada to be considered full citizens, and to give them the means to establish their own institutions.

You should see the huge arch of the Menin Gate in Ypres, Belgium. The monument's walls are covered with the names of soldiers from the Commonwealth countries who died in combat during the great wars. Since the end of the second world war, a remembrance ceremony has been held there every night at 8 p.m. When I was there it occurred to me that a similar monument should be erected in Canada with the names of all the Canadian soldiers who died in Flanders Fields, including Aboriginal soldiers of course.

In this year when Parliament passed a veterans' charter by enacting Bill C-45 last May, the least Ms. Guarnieri's department can do is to form a special committee of Aboriginal veterans. By receiving complaints from Aboriginals, this committee could correct a certain number of the injustices that never should have happened in Canada.

We have a duty to remember. I want to point out that in October, the First Nations, the Metis and the Inuit of Canada left a very special mark on France: an inukshuk made of stones given by the First Nations, Metis and Inuit communities across Canada in memory of the soldiers who lost their lives on Vimy Ridge and on Normandy's beaches. The work is by a famous Inuit sculptor from Nunavut, Peter Irniq. This sculpture, in the traditional Inuit style, immortalizes the memory of all Canadian soldiers by including Aboriginals. There is an opening in the inukshuk's head to allow the spirits of those who died on foreign soil to reunite, across the ocean, with the spirits of their ancestors who stayed in their native land.

I would be remiss if I did not congratulate and sincerely thank the Honourable Minister Guarnieri for all the speeches she gave during the official ceremonies in Belgium and France. I must admit that her words made me extremely glad and proud. I could say a great deal about her extraordinary speeches delivered with such eloquent sincerity, but I will just say that, through her voice, the Government of Canada has at last significantly recognized the exceptional human greatness of these Aboriginal men and women who joined up to go and defend freedom in distant lands while frequently deprived of it on their own lands and in their own country.

If I may have your indulgence, honourable senators, on the occasion of this Year of the Veteran and in light of the numerous observations made to me during my recent trip on the horrors of war, I will share with you a few reflections concerning the role our country must play in connection with peacekeeping.

• (2130)

In the course of my career, I attended a training program at the National Defence College in Kingston. That unforgettable experience afforded me an opportunity to meet some exceptional people, particularly Sister Peggy Butts, later to become a senator herself, and Norm Bélanger of the RCMP, both of them sadly no longer with us.

This program exposed us to some 600 lectures, studies, travel and numerous meetings, and the three of us came away with a nearly identical view of what peacekeeping is all about.

Our trio was known for its positions during heated debates and we were dubbed the Peaceniks. Not Beatniks, but Peaceniks.

You will recall that we were in the midst of the Cold War at that time, the late 70s, and the world was weighed down by the terrible threat of a ridiculous arms race. You can well imagine that the subject of the day at that college in Kingston was nearly always the rivalry between the two blocs, the east and the west.

I remember a U.S. army colonel who shocked me when he told me that he had been trained to kill the enemy and so he was dreaming of the day he could practice what he had learned.

The more we talked about it, the more we were convinced that Canada had no other choice but to make a greater commitment to peaceful action by becoming a world leader in the development of peace among peoples.

I can tell you, honourable senators, that my commitment to peace has not changed. How many times since then and during my last trip did I not hear a veteran or a wise elder say in reference to war, "never again."

"Never again" a powerful call for peace and reason, is a mantra I have had the pleasure of hearing on numerous occasions during these historic commemorative ceremonies for the first nations of Canada.

Given the ever-present threat of the global destruction of mankind, we must strive for it, say it and repeat it now more than ever: "never again", "never again"! Weapons are not what make

the world a better, fairer and safer place. As some periods during the twentieth century have proven, it takes strong and determined but peaceful action in favour of fundamental human rights to bring about change, to make the world a better, fairer and less dangerous place.

My time in Kingston put me in touch with various members of the Canadian Forces' international mission. I will always remember the peacekeeper at the Suez Canal who told me how proud he was to be Canadian and to belong to this country whose reputation for its actions and positions in favour of peace is unequalled.

But he condemned the fact that his training as a soldier was not designed to help him develop knowledge and skills to promote peace. This peacekeeper had reached the same conclusion as the Peaceniks: the Canadian army has to train soldiers not for war but rather for sustainable peace and development work.

How could I fail to mention here the war in Iraq? In this regard, Canada has become a model for the rest of the world. In my opinion, despite strong diplomatic pressure, the Canadian government made the only choice possible by not taking part in the invasion of Iraq alongside the American forces. War leads to war, not to peace. "Never again," "never again." Security in the Middle East, as elsewhere, is only possible through peaceful and united action that fosters sustainable development.

For a long time I have had the very strong conviction that we have all the resources necessary to become the peacemakers the world needs. Devoting my entire life to the development of the First Nations of Canada has reinforced this conviction. Is it not obvious that, as long as we hold fast to justice and peace within Canada, we can play an exemplary role on the international scene?

Of course, we must recognize that much has been done in Canada to improve the situation of the First Peoples. The very strong conclusions and recommendations of the Erasmus-Dusseault Royal Commission are eloquent testimony to this.

We must, however, follow the course on which Canada has embarked, right to the very end. The wrongs done to Canada's Aboriginal peoples must now be righted, starting of course with veterans. In addition, the First Peoples must now find a way out of the very poor social and economic conditions in which many of them still live.

Everything is in place for this to happen. We are not at an impasse, but at a crossroads leading to the creation of institutions and partnerships consistent with the principle of self-government for First Nations. We owe this, among other things, to the selfless sacrifice of Aboriginal soldiers for freedom.

Peaceful and fair toward its citizens, our country could play an historic and huge role in the world, a role of development, justice and peace in a climate of respect for cultural differences and of dignity.

Honourable senators, such is the role our Native peoples are asking you to take. In the past they welcomed new arrivals with this sense of justice and peace and respect for cultural differences. It was so that Canada could live up to the cause of peace that our veterans remained loyal to their country and defended other countries in the world when needed, sticking together despite the injustices toward them.

In closing, I want to commend General Dallaire, recently appointed to the Senate of Canada. The publication of his book Shake Hands With The Devil, after his involvement in the brutally tragic events that took place in Rwanda in 1994 and the unbearable helplessness he faced, lead me to believe that Senator Dallaire is in a much better position than I to speak of the importance of the sacrifice made by veterans and the human disaster that can result from wars and conflicts.

When one has the courageous generosity to aim at lofty and true ideals, the means for their achievement come quite easily. Is it not true that, if the Government of Canada freed itself of the financial burden associated with the mindset of military armament, the moneys freed up would surely give us some powerful ways to unify the people of Canada, thereby becoming an international model and instrument of peace?

Honourable senators, in conclusion, I must tell you the main thing I learned from the elders and veterans during my trip. I heard a message of justice and peace, one which Canada has a duty to carry to the rest of the world and one that requires Canada to give our peace-keepers the necessary training, tools and other means necessary to allow them to continue intervening effectively in conflicts, as a constant reminder of the message we must never forget: "Plus jamais la guerre/Never again".

Hon. Roméo Dallaire: Honourable senators, I would like to request adjournment of the debate.

Hon. Marcel Prud'homme: Honourable senators, would Senator Dallaire allow a comment first?

The Hon. the Speaker pro tempore: Honourable senators, Senator Gill's time is up.

[English]

Senator Prud'homme: I want to make a comment on the honourable senator's speech. I will not delay. Generally, you will want to adjourn the debate. It there consent?

[Translation]

The Hon. the Speaker pro tempore: Honourable senators, is there unanimous consent?

Hon. Senators: No.

[English]

The Hon. the Speaker pro tempore: We do not have consent.

Senator Prud'homme: This is important when you have a debate. I am just asking to make a comment, and then Senator Dallaire can adjourn the debate. I know one person is very impatient and would like to leave. They can leave. This is the first time I have seen someone refusing.

The Hon. the Speaker pro tempore: I am sorry, senator, permission is not granted.

Senator Prud'homme: I did not hear that.

The Hon. the Speaker pro tempore: Permission was not granted.

Senator Prud'homme: Did the honourable speaker *pro tempore* ask the question?

The Hon. the Speaker pro tempore: Yes.

On motion of Senator Dallaire, debate adjourned.

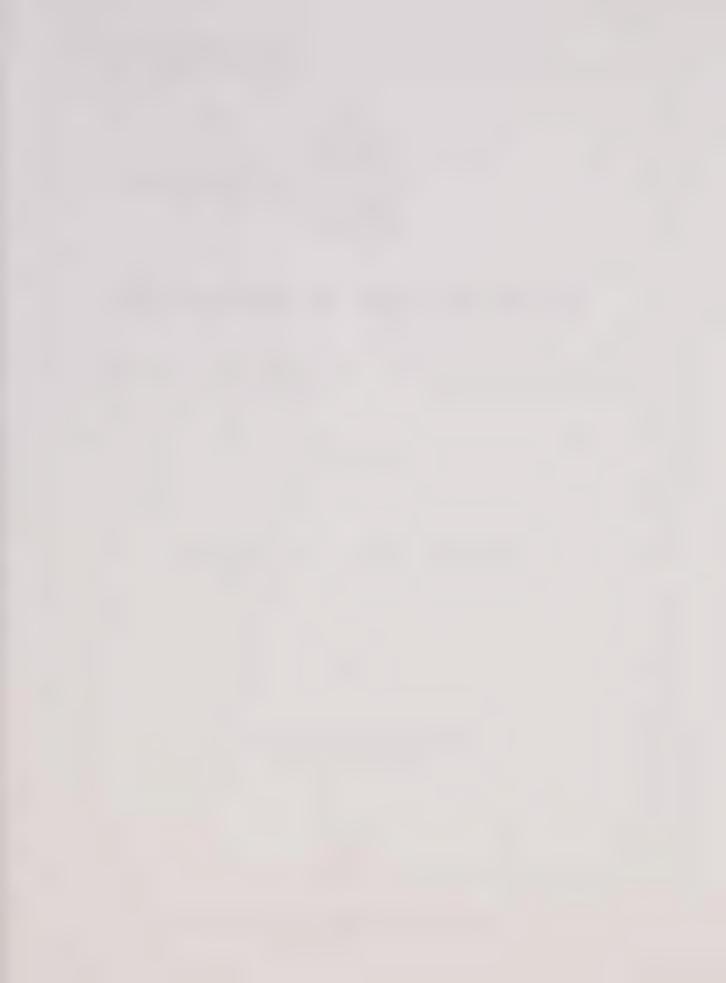
The Senate adjourned until Thursday, November 24, 2005, at 1:30 p.m.

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OFFICIAL REPORT (HANSARD)

Thursday, November 24, 2005

THE HONOURABLE SHIRLEY MAHEU SPEAKER PRO TEMPORE

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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193

THE SENATE

Thursday, November 24, 2005

The Senate met at 1:30 p.m., the Speaker pro tempore in the chair.

Prayers.

SENATORS' STATEMENTS

GOVERNMENT-ABORIGINAL CONFERENCE

Hon. Jack Austin (Leader of the Government): Honourable senators, over the past year and a half, the Government of Canada has been dedicated to improving the quality of life of Aboriginal peoples. These efforts have culminated in an historic conference to be held today and tomorrow in Kelowna, British Columbia.

The Prime Minister is leading the initiative and bringing together premiers, territorial leaders, the Assembly of First Nations, the Inuit Tapiriit Kanatami, the Metis National Council, the Native Women's Association of Canada and the Congress of Aboriginal Peoples. This conference is a continuation of the April 2004 Canada-Aboriginal Peoples Roundtable and it allows the Government of Canada and Aboriginal people to strengthen a relationship based upon acknowledged Aboriginal rights.

The Government of Canada recognizes that to be effective partners in the policy development process, Aboriginal organizations need appropriate and meaningful support. This government is committed, as a key priority, to improving the welfare of Aboriginal people and to closing the disparity between their social and economic conditions and those of other Canadians.

Efforts will be directed toward building consensus on five issues of pivotal importance to the future: prosperity of Aboriginal communities, health, education, housing and economic development. Yesterday, another historic step was taken. My colleagues, Minister McLellan, Minister Cotler and Minister Scott, announced an agreement in principle toward a fair and lasting resolution of the legacy of Indian residential schools. This agreement affords several means of reaching true resolution encompassing payments to individuals, support for cultural healing, promoting education on the history of government policies with respect to Aboriginal Canadians and improvements to the current alternative dispute resolution process.

Aboriginal Canadians represent an enormous potential for our country. They must be able to realize their full inclusion into our economy and our society while maintaining their identity. This first ministers meeting with leaders of national Aboriginal organizations will be another significant milestone towards advancing our shared interest in making Canada a better country.

Last but not least, in the interests of the Aboriginal communities there are two bills on the Senate agenda. I refer to Bill C-54, legislation to permit First Nations to manage their oil

and gas resources, which I hope will be reported today. The second is Bill C-71, First Nations commercial development, which unfortunately will begin second reading tomorrow due to the unwillingness of a senator to give consent to start today.

I urge the Senate to show goodwill and understanding of the rights of the First Nations and pass this legislation in time for Royal Assent.

RUSSIAN FAMINE-GENOCIDE OF 1932-33 WORLD WAR I DISENFRANCHISED UKRAINIAN-CANADIANS

Hon. A. Raynell Andreychuk: Honourable senators, November 26 marks the annual day for the remembrance of many millions of victims of the genocide and great famine of 1932-33 in the Soviet Union known as Holodomor. Stalin's repressive regime used food as a weapon in the pursuit of ideological views and goals. As a result, upwards of seven million people lost their lives. In fact, as the Soviet archives are unravelled, this number climbs. Senators will recall that this chamber passed, in June 2003, a resolution recognizing the famine-genocide and called on the Government of Canada to do the same. Regrettably, the Canadian government has not done so yet. I call all senators to renew their efforts in this regard.

Again, I call on senators individually and collectively to use their heroic efforts and to pass Bill C-331 before we rise in this session. Bill C-331 calls upon the federal government to acknowledge that thousands of Ukrainian-Canadians were unjustly interned and disenfranchised in Canada during the First World War, and to provide funding to commemorate the sacrifices made by these Canadians and to develop educational materials detailing this dark period of Canada's history.

Honourable senators, this chamber, with its courage to take a stand, will, I am sure, pass this bill. It will be one further assurance that within Canada such action will not be repeated.

• (1340)

APPOINTMENT OF MR. BHUPINDER LIDDAR AS CONSUL GENERAL TO CHANDIGARH, INDIA

Hon. Marcel Prud'homme: Honourable senators, justice was done when Bhupinder Liddar was appointed Canada's deputy permanent representative to the United Nations Environment Program, or UNEP, the United Nations Centre for Human Settlements, Habitat, and special representative to the World Urban Forum, to be held in Vancouver in 2006.

Mr. Liddar was originally appointed as Canada's Consul General in Chandigarh, India, in October 2003 by then Prime Minister Jean Chrétien, my friend. However, allegations of security concerns forced the cancellation of the appointment. Mr. Liddar launched an appeal with the Security Intelligence Review Committee, or SIRC, which, after a ten-month hearing, recommended that he be granted top secret security clearance.

SIRC recognizes in its report that Mr. Liddar may have drawn attention because of his support for an "Arab cause." I have known Mr. Liddar since he first came to work for Progressive Conservative MP Heath Macquarrie, who later was our colleague in this chamber. He later also worked for our colleague Senator Forrestall.

I am pleased that, in this country, supporting an unpopular cause is no longer considered, or so I hope, an act of "security concern."

Mr. Liddar is a well-qualified person with degrees from U.S. universities and experience in parliamentary affairs as well as diplomatic and international issues. He also possesses excellent communication skills. The choice, therefore, is excellent, and I am sure Mr. Liddar will serve Canada well. I would like to extend our sincere congratulations to him on his appointment, and I am sure all senators will join me in wishing him a safe and successful safari.

NATIONAL ADDICTIONS AWARENESS WEEK

Hon. Ione Christensen: Honourable senators, we are recognizing National Addictions Awareness week. While many are aware of the various addictions and the negative effects they can have on the lives of individuals, there is still a long way to go in understanding an addiction and dealing with it as a disease, which it is, and not just a problem or a weakness.

The image of addiction in the mind of many is the homeless alcoholic on the street. The reality, however, is that addictions are not restricted to alcoholism or to any particular social class. Addictions range widely from gas sniffing to drugs and gambling, just to name a few.

However, all too often, the addict on the street is a victim, or a product, if you will, of another addiction. Often these people are suffering from the effects of FASD, fetal alcohol spectrum disorder, an effect resulting from a woman drinking while pregnant and the fetus being permanently affected. FASD is a preventable disorder, and yet, once afflicted, the individual will have permanent brain damage with the difficult ramifications that it brings.

Canada's prisons house a large percentage of people affected by FASD. These people are not capable of understanding right from wrong or learning from the consequences of their misdemeanours. FASD affects all society, starting with the immediate family, and the burden of guilt carried by the mother to all the siblings, to the extended family, the schools and all society. These persons cannot function without an extensive help network and special training. This comes with a large price tag.

The most affected of all, of course, are the individuals. They struggle to understand why they are different and how to make their way in an often unforgiving world. We all contribute in many ways to find cures for so many of today's afflictions such as

cancer, MS, Parkinson's disease, and so on. Yet here we have an affliction where the cure is already known. It can be totally prevented.

Communities, families and partners can all be instrumental in giving support to a woman with addictions. No woman sets out to intentionally damage her unborn child through drinking, but if she has an addiction, she needs all the support she can get to deliver a healthy child.

Addictions are the symptoms of a bigger problem. As with most problems in our society, the key is to first admit that there is a problem, and then deal with it face to face. I have worked in a treatment centre and I know that substance abuse problems are complex. However, I also know that with treatment and support, an addiction can be beaten. Most of our programs, however, deal with treating the individual but fail to continue into the family unit where the recovering individual must find support on his or her path to wellness.

The Hon. the Speaker pro tempore: I am sorry, senator, your time has expired.

INDIAN RESIDENTIAL SCHOOLS

Hon. Pat Carney: Honourable senators, yesterday we heard Senator Nick Sibbeston discuss his painful memories of his years in residential schools in Fort Simpson, Providence, Inuvik and Yellowknife. We gave him a round of applause. I want to make it clear that he earned that applause because from those beginnings, Senator Sibbeston, whom I have known for 35 years, went on to become, I believe, the first Aboriginal lawyer in the Northwest Territories. He also went on to become a member of the Northwest Territories Council and, of course, premier of the NWT before he came to sit with us in our chamber.

However, today, Nick, I want to suggest that we reflect on the sacrifices made by some of the young Canadian men and women who made it possible for this young Slavey kid to receive the education that made his achievements attainable.

Yes, there was abuse and suffering in the residential schools. The payment of \$2 billion that is being made is recognition of that. However, we tend to overlook in this situation the commitment by the many who served their lives in these territories to ensure that young Aboriginal kids had the skills to survive in the world beyond the trap line. Yes, we do have pictures of the forced removal of children from their parents and their being brought to the schools, but there were other children who were brought by the parents to the schools to learn the skills of reading and writing so that when they grew up they could deal with the trader in their community or when they were out on the trap line, because there was no alternative.

I think of Canadians such as my cousin from the Ottawa Valley, Father Casey, who was an Oblate, and who, like others, went out to the world beyond the edge of the world, to use a concept from the West Coast, without any cultural training. Father Casey, as a young Oblate, had told our family how he would lie on his cot

behind the church on Cooper Island, listening to young Aboriginal youths and others partying on the beach with drumming and chants. He was literally afraid — because he was so ignorant of their customs — that he would be scalped in the process of this party. They got no training at all.

Yes, there was hard work and poverty. The leader of the Oblates in Vancouver told me how the church was given 40 cents a day by the government to educate, feed, house, clothe and provide medical services to the children in their care.

As an economist in the 1970s in the Mackenzie Valley, where I met Nick, I would sometimes leave my young son, who was a first grader, in a hostel in a settlement where I was working. I noticed that often many of the children were better than those the...

The Hon. the Speaker pro tempore: Senator Carney, your time has expired.

RECOGNITION OF SPEAKER'S PARADE

Hon. Tommy Banks: Honourable senators, many acquaintances of mine, in particular young ones, point me out as having a curmudgeonly attitude with respect to the matters of tradition, the rights that accrue to tradition, the trappings of tradition and the things that we do to observe traditions. I am about to prove them right. I apologize for this, but we are all guilty of it from time to time.

There is an important Senate tradition having to do with the entrance into this place of His Honour the Speaker and, more important, the exit from this place of His Honour the Speaker. I have to say — although I too am guilty of it from time to time — that the lack of regard for this tradition really bothers me. It is not enough simply to pay attention to the persons who occupy those offices and their talents, and hold in regard such persons and the procedure that takes place. We must also respect the tradition, which was not invented last Thursday. It is several hundred years old, and it means something when the mace follows the Speaker into and out of this place.

• (1350)

I hope that honourable senators will join me in being more careful to observe the niceties of the ritual, which is something of which we all should be reminded every day. I promise that I will do that more assiduously, and I hope you will join me.

[Translation]

ROUTINE PROCEEDINGS

STUDY ON GOVERNMENT POLICY FOR MANAGING FISHERIES AND OCEANS

GOVERNMENT RESPONSE REPORT OF FISHERIES AND OCEANS COMMITTEE TABLED

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, pursuant to rule 131(2) of the Rules of the Senate, I have the honour to table, in both

official languages, the document entitled, Interim Report: Canada's New and Evolving Policy Framework for Managing Fisheries and Oceans, which is the government response to the recommendations of the Standing Senate Committee on Fisheries and Oceans.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

AIR INDIA PLANE CRASH— REPORT OF INDEPENDENT ADVISOR TABLED

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the report entitled Lessons to be Learned by the Honourable Bob Rae, independent advisor to the Minister of Public Safety and Emergency Preparedness Canada, on outstanding questions with respect to the bombing of Air India Flight 182.

TREASURY BOARD

2005 ANNUAL REPORT TABLED

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, a copy of the annual report to Parliament, entitled Canada's Performance 2005: The Government of Canada's Contribution.

CRIMINAL CODE

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Lise Bacon, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, November 24, 2005

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTEENTH REPORT

Your Committee, to which was referred Bill C-49, An Act to amend the Criminal Code (trafficking in persons), has, in obedience to the Order of Reference of Tuesday, November 1, 2005, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LISE BACON Chair

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, I move that the bill be placed on Orders of the Day for third reading later this day.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Hon. Madeleine Plamondon: No.

The Hon. the Speaker pro tempore: Leave has not been granted, honourable senators.

Senator Robichaud: Honourable senators, I move that this bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

On motion of Senator Robichaud, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

CRIMINAL CODE CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Lise Bacon, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, November 24, 2005

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

FOURTEENTH REPORT

Your committee, to which was referred Bill C-53, An Act to amend the Criminal Code (proceeds of crime) and the Controlled Drugs and Substances Act and to make consequential amendments to another Act, has, in obedience to the Order of Reference of Tuesday, November 22, 2005, examined the said bill and now reports the same without amendment.

Respectfully submitted,

LISE BACON Chair

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, I move that this bill be placed on the Orders of the Day for third reading later this day.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Hon. Madeleine Plamondon: No.

The Hon. the Speaker pro tempore: Leave has not been granted, honourable senators.

Senator Robichaud: Honourable senators, I move that this bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

On motion of Senator Robichaud, bill placed on the Orders of the Day for third reading at the next sitting of the Senate. [English]

REMOTE SENSING SPACE SYSTEMS BILL

REPORT OF COMMITTEE

Hon. Peter A. Stollery, Chair of the Standing Senate Committee on Foreign Affairs, presented the following report:

Thursday, November 24, 2005

The Standing Senate Committee on Foreign Affairs has the honour to present its

NINTH REPORT

Your Committee, to which was referred Bill C-25, An Act Governing the Operation of Remote Sensing Space Systems, has, in obedience to the Order of Reference of Tuesday, November 1, 2005, examined the said Bill and now reports the same without amendment.

Attached as an appendix to this Report are the observations of your Committee on Bill C-25.

Respectfully submitted,

PETER A. STOLLERY Chair

APPENDIX

Bill C-25, An Act Governing the Operation of Remote Sensing Space Systems

Observations of the Standing Senate Committee on Foreign Affairs

The Committee was advised by officials that it was not the purpose of clause 22 of the Act to second the use of a private sector satellite such as RADARSAT2 without appropriate compensation.

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, with leave of the Senate, I move that this bill be read the third time later this day.

The Hon. the Speaker pro tempore: Honourable senators, is leave granted?

Some Hon. Senators: Agreed.

Hon. Madeleine Plamondon: No.

The Hon. the Speaker pro tempore: Leave is not granted.

On motion of Senator Robichaud, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

PUBLIC SERVANTS DISCLOSURE PROTECTION BILL

REPORT OF COMMITTEE

Hon. Joseph A. Day, Deputy Chair of the Standing Committee on National Finance, presented the following report:

Thursday, November 24, 2005

The Standing Senate Committee on National Finance has the honour to present its

EIGHTEENTH REPORT

Your Committee, to which was referred Bill C-11, An Act to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings, has in obedience to the Order of Reference of Thursday, October 27, 2005, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOSEPH A. DAY Deputy Chair

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, I move that this bill be placed on the Orders of the Day for third reading later this day.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Hon. Madeleine Plamondon: No.

The Hon. the Speaker pro tempore: Honourable senators, leave has not been granted.

Senator Robichaud: Honourable senators, I move that this bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

On motion of Senator Robichaud, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1400)

[English]

STUDY ON STATE OF HEALTH CARE SYSTEM

FOURTH INTERIM REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED

Hon. Michael Kirby: Honourable senators, I have the honour to table the sixteenth (fourth interim) report of the Standing Senate

Committee on Social Affairs, Science and Technology on mental health and mental illness entitled: A proposal to Establish a Canadian Mental Health Commission.

I wish to inform honourable senators that this proposal has been accepted by the federal government, every provincial and territorial government. One hour ago Senator Keon and I participated in a press conference with the Minister of Health announcing the creation of the Canadian Mental Health Commission, exactly along the lines proposed by our Senate committee.

Hon. Senators: Hear, hear!

The Hon. the Speaker pro tempore: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kirby, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRTEENTH REPORT OF COMMITTEE PRESENTED

Hon. George J. Furey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, November 24, 2005

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

THIRTEENTH REPORT

Your Committee recommends that the following funds be released for fiscal year 2005-2006:

Conflict of Interest for Senators (Legislation)

Total	œ.	1.500
Other Expenditures	\$	0
Transport and Communications	\$	0
Professional and Other Services	\$	1,500

Conflict of Interest for Senators (Legislation)

Total	\$ 50,000
Other Expenditures	\$ 0
Transportation and Communications	\$ 0
Professional and Other Services	\$ 50,000

Respectfully submitted,

GEORGE J. FUREY Chair The Hon. the Speaker pro tempore: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Furey, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

WAGE EARNER PROTECTION PROGRAM BILL

REPORT OF COMMITTEE

Hon. Jerahmiel S. Grafstein, Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, November 24, 2005

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

SEVENTEENTH REPORT

Your Committee, to which was referred Bill C-55, An Act to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments to other Acts, has, in obedience to the Order of Reference of Wednesday, November 23, 2005, examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

JERAHMIEL S. GRAFSTEIN Chair

APPENDIX

Bill C-55, An Act to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments to other Acts

Unanimous observations of the Standing Senate Committee on Banking, Trade and Commerce

The Committee wishes to indicate our disappointment with the process by which the Bill arrived in the Senate. We recognize the extraordinary circumstances that exist with the impending dissolution of Parliament, but believe we had an inadequate opportunity to review comprehensively such an important piece of framework legislation.

Notwithstanding the foregoing, the Committee has decided to report Bill C-55 without amendment and without having conducted the customary comprehensive study and review. We do so not because we approve of the legislation in its entirety, as drafted, but rather because of three key factors.

First, the Committee unanimously supports and approves of the long-overdue wage earner protection provisions of the Bill and does not wish to delay, or in any way deny — or appear to deny — access to enhanced legislated protection for this vulnerable group of creditors.

Second, the witnesses heard by the Committee, including the Minister of Labour and Housing and the Parliamentary Secretary to the Minister of Industry, gave unqualified assurance to the Committee, to be confirmed in writing forthwith, that Bill C-55 would not be proclaimed into force prior to 30 June 2006 at the earliest.

Third, the Committee expects that between now and the proclamation of Bill C-55, we will receive a timely Order of Reference that will enable us to undertake the thorough review of the *Bankruptcy and Insolvency Act* and the *Companies' Creditors Arrangement Act* that would have occurred with respect to Bill C-55 had it been referred to us on a more timely basis.

In connection with the Committee's study in 2006, we look forward to receiving, from Industry Canada officials, the legislative and regulatory changes they undertook to provide to improve Bill C-55 and Canada's insolvency regime more generally. All stakeholders should have an opportunity to share with us their views on key aspects of the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act as well as other insolvency legislation. Unfortunately, too few witnesses were heard and there was insufficient study at Committee in the House of Commons during its examination of Bill C-55 which may, in part, explain why obviously needed amendments were not introduced before the Bill was sent to the Senate.

The Committee has in-depth knowledge of the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act. In 2002 and 2003 we reviewed these Acts and, in November 2003, tabled our report Debtors and Creditors Sharing the Burden: A Review of the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act. In that report, we comprehensively examined and made recommendations respecting the full range of consumer and commercial insolvency issues as well as on administrative and procedural issues.

While the Committee wholeheartedly supports the principle of the wage earner protection regime, even in that instance we have questions. In our view, workers should be compensated in the timeliest manner possible, and we are not certain that the Bill's provisions meet the test of timeliness. For example, we wonder why the administrator is not able to pay the workers immediately, rather than waiting for workers to be paid out of the Wage Earner Protection Program.

Moreover, the Bill contains a number of provisions unrelated to wage earner protection that we believe fall well short of what the Committee wishes to see. In particular, we believe further study is needed in a number of areas to ensure the effectiveness of Canada's insolvency legislation, including:

• the protection, during insolvency and corporate restructuring, of eligible financial contracts in derivatives and other structured transactions

- cross-border insolvencies
- debtor-in-possession financing
- transfers at undervalue and preferences
- executory contracts
- governance
- insolvency of other vehicles, including income trusts
- discharge from bankruptcy, including for students.

These areas, among others, need thorough study and review by the Committee in order to ensure that new insolvency framework legislation goes forward in the proper form.

The Committee notes that we have some experience with delayed proclamation of legislation. A similar approach was adopted in December 1997, when the Minister of Finance delayed the coming into force of the governance and investment provisions of the Canada Pension Plan Investment Board Act until April 1998 in order that we could study them. The Minister also agreed to refer the draft regulations governing the Investment Board to us for review and comment. We believe that this approach was successful then, and will be successful when we have the opportunity to study and review, in a comprehensive manner, the subject matter of Canada's new insolvency framework legislation in 2006.

The Committee continues to believe that the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act constitute critical framework legislation that affect, in a very fundamental manner, the Canadian economy and all Canadians who participate in it. The Committee understands that the appropriate government legislative initiatives will be taken to ensure the foregoing.

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): I move, with leave of the Senate, that this bill be placed on the Orders of the Day for third reading later this day.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Hon. Madeleine Plamondon: No.

The Hon. the Speaker pro tempore: Leave is not granted.

On motion of Senator Robichaud, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

FIRST NATIONS OIL AND GAS AND MONEYS MANAGEMENT BILL

REPORT OF COMMITTEE

Hon. Nick G. Sibbeston, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Thursday, November 24, 2005

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred Bill C-54, An Act to provide first nations with the option of managing and regulating oil and gas exploration and exploitation and of receiving moneys otherwise held for them by Canada, has, in obedience to the Order of Reference of Tuesday, November 22, 2005, examined the said Bill and now reports the same without amendment, but with observations, which are appended to this report.

Respectfully submitted,

NICK G. SIBBESTON Chair

Appendix to the Seventh Report of the Standing Senate Committee on Aboriginal Peoples on Bill C-54, An Act to provide first nations with the option of managing and regulating oil and gas exploration and exploitation and of receiving moneys otherwise held for them by Canada.

OBSERVATIONS

At its meeting of Wednesday, November 23, 2005, the Committee agreed to adopt Bill C-54 without amendment, but with the following observations:

Over the last number of years, a variety of nonderogation clauses have appeared in federal legislation. This has created uncertainty and concern for Aboriginal peoples that needs to be resolved.

On the matter of non-derogation, the Committee strongly recommends that a thorough study of non-derogation clauses be completed by the Senate Standing Committee on Legal and Constitutional Affairs as soon as possible but no later than June 30, 2006.

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): I move, with leave of the Senate, that this bill be placed on the Orders of the Day for third reading later this day.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Hon. Madeleine Plamondon: No.

The Hon. the Speaker pro tempore: Leave is not granted.

On motion of Senator Robichaud, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

ENERGY COSTS ASSISTANCE MEASURES BILL

REPORT OF COMMITTEE

Hon. Tommy Banks, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, November 24, 2005

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

TWELFTH REPORT

Your Committee, which was referred Bill C-66, An Act to authorize payments to provide assistance in relation to energy costs, housing energy consumption and public transit infrastructure, and to make consequential amendments to certain Acts, has, in obedience to the Order of Reference of Tuesday, November 22, 2005, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

TOMMY BANKS Chair

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): I move, with leave of the Senate, that this bill be placed on the Orders of the Day for third reading later this day.

The Hon. the Speaker pro tempore: Honourable senators, is leave granted?

Some Hon. Senators: Agreed.

Hon. Madeleine Plamondon: No.

The Hon. the Speaker pro tempore: Leave is not granted.

On motion of Senator Robichaud, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

STUDY ON ISSUES RELATED TO MANDATE

INTERIM REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE TABLED

Hon. Tommy Banks: Honourable senators, I have the honour to table the thirteenth report of the Standing Senate Committee on Energy, the Environment and Natural Resources, to which I avidly commend the attention of the government and all honourable senators. The report is entitled: Water in the West: Under Pressure.

The Hon. the Speaker pro tempore: Honourable senators, when shall this report be taken under consideration?

On motion of Senator Banks, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

• (1410)

[Translation]

BUSINESS OF THE SENATE

NOTICE OF MOTION TO AUTHORIZE SUNDAY SITTING

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move

That, when the Senate adjourns on Saturday November 26, 2005, it do stand adjourned until Sunday, November 27, 2005, at 1:30 p.m.

NOTICE OF MOTION TO EXTEND FRIDAY SITTING

Hon. Fernand Robichaud (Acting Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move

That, notwithstanding rule 6(2), when the Senate sits on Friday, November 25, 2005, it continue its proceedings beyond 4 pm;

That, notwithstanding any other rule of the Senate, when the Senate has completed consideration of every item on the Order Paper and Notice Paper of Friday, November 25, 2005, the sitting shall be suspended to the call of the Chair.

[English]

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

FOURTH WINTER SESSION OF OSCE PARLIAMENTARY ASSEMBLY, FEBRUARY 24-25, 2005—REPORT TABLED

Hon. Consiglio Di Nino: Honourable senators, I have the honour to table the report of the Canadian delegation to the Fourth Winter Session of the Organization for Security and Co-operation in Europe, OSCE, Parliamentary Assembly held in Vienna, Austria February 24-25, 2005.

CANADA-CHINA LEGISLATIVE ASSOCIATION

ASIA-PACIFIC PARLIAMENTARY CONFERENCE ON RENEWABLE ENERGIES, JUNE 4, 2005— REPORT TABLED

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canada-China Legislative Association respecting its participation in the Asia-Pacific Parliamentary Conference on Renewable Energies held in Gifu, Japan on June 4, 2005.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

FOURTEENTH ANNUAL SESSION OF OSCE PARLIAMENTARY ASSEMBLY, JULY 1-5, 2005— REPORT TABLED

Hon. Consiglio Di Nino: Honourable senators, I have the honour to table the report of the Canadian delegation to the Fourteenth Annual Session of the Organization for Security and Co-operation in Europe, OSCE, Parliamentary Assembly in Washington, D.C., from July 1 to 5, 2005.

CANADA-JAPAN INTER-PARLIAMENTARY GROUP

TWENTY-SIXTH GENERAL ASSEMBLY OF ASEAN INTER-PARLIAMENTARY ORGANIZATION, SEPTEMBER 18-23, 2005—REPORT TABLED

Hon. Vivienne Poy: Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-Japan Interparliamentary Group respecting its participation in the Twenty-sixth General Assembly of the Association of Southeast Asian Nations, ASEAN, Interparliamentary Organization held in Vientiane, Laos, September 18-23, 2005.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

SPRING SESSION OF NATO PARLIAMENTARY ASSEMBLY, MAY 27-31, 2005—REPORT TABLED

Hon. Jane Cordy: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian NATO Parliamentary Association's delegation to the spring session of the NATO Parliamentary Assembly, held in Ljubljana, Slovenia, May 27-31, 2005.

Hon. Marcel Prud'homme: Honourable senators, I am honoured to report to the Senate that the 11 non-aligned senators — although I do not speak on their behalf — have no report about travelling to make to the Senate.

BUSINESS OF THE SENATE

NOTICE OF MOTION TO DEAL WITH BILL C-331 AND BILL C-259

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I give notice that, on Friday, November 25, 2005, I will move:

That no later than 3:30 p.m., Friday, November 25, 2005, the Speaker shall interrupt any proceedings then underway and all questions necessary to dispose of all stages of the following bills shall be put forthwith without further adjournment, debate or amendment:

Bill C-331, An Act to acknowledge that persons of Ukrainian origin were interned in Canada during the First World War and to provide for recognition of this event;

Bill C-259, An Act to amend the Excise Tax Act (elimination of excise tax on jewellery).

TIBET

NOTICE OF MOTION IN SUPPORT OF AUTONOMY

Hon. Consiglio Di Nino: Honourable senators, I give notice that at the next sitting of the Senate I will move:

That the Senate support the declaration of the Fourth World Parliamentarians Convention on Tibet adopted by parliamentarians from 30 different countries on November 19, 2005 in Edinburgh, Scotland in support of Tibet's goal of genuine autonomy;

That the Senate support His Holiness the Dalai Lama's Middle Way approach to resolve the conflict between the People's Republic of China and the Tibetan government in exile through negotiations in the spirit of non-violence and reconciliation;

That the Senate commend the Chinese government for inviting the Dalai Lama's special envoys for four rounds of high-level meetings in Beijing and Berne between September 2002 and June 2005;

That the Senate support the creation of a zone of *ahimsa* (peace and non-violence) throughout the Tibetan plateau; and

That the Senate deplore the refusal of the Chinese government to release political prisoners, in particular the Panchen Lama, Gedhum Choekyi Nyima, who has been held in a secret location since 1995, when he was only 6 years old.

BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Jerahmiel S. Grafstein: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Committee on Banking, Trade and Commerce have the power to sit today, Thursday, November 24, 2005, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker pro tempore: Is leave granted?

Some Hon. Senators: Agreed.

Hon. Madeleine Plamondon: It is not granted.

The Hon. the Speaker pro tempore: Leave is not granted.

Hon. Consiglio Di Nino: Honourable senators, we have had Bill C-259 before us for more than five months. It deals with the elimination of —

The Hon. the Speaker pro tempore: Leave was not granted, Senator Di Nino.

An Hon. Senator: We want a vote on that.

Senator Grafstein: May I have leave to at least present the rationale for the motion?

The Hon. the Speaker pro tempore: No, leave is not granted.

Senator Plamondon: Is leave granted?

The Hon. the Speaker pro tempore: No, you denied leave, Senator. Leave is not granted.

[Translation]

TREATMENT OF AUTISM

PRESENTATION OF PETITION

Hon. Gerald J. Comeau: Honourable senators, I have the honour to present, on behalf of 27 Canadians from the Halifax area, a petition calling on Parliament to amend the Canada Health Act and regulations so as to consider applied behavioural analysis an essential medical treatment and to require all provinces to provide and fund these essential treatments to children with autism.

The petitioners are also calling for the creation of a university chair in every Canadian province to conduct research in this field.

• (1420)

[English]

OUESTION PERIOD

TRANSPORT

PEARSON INTERNATIONAL AIRPORT—RENT FEES

Hon. David Tkachuk: My question is with respect to Transport Minister Jean Lapierre's mixed messages on the Toronto Pearson Airport's high cost of landing. In recent weeks the Transport Minister has gone from lecturing airlines that they should consider directing traffic to Montreal's Trudeau airport if they do not like Pearson's high costs. After getting an earful from his Toronto-based Liberal MPs, he hinted that rent relief could be forthcoming at Pearson.

Could the Leader of the Government in the Senate clarify where the government stands on this issue? Why does the Transport Minister look like he is just making policy as he is walking along? We are not sure whether those airport rents will stay high or whether there will be a lowering of the airport rent in Toronto.

Hon. Jack Austin (Leader of the Government): Honourable senators, I very much appreciate the question from Senator Tkachuk and his concern for Toronto because, of course, so many Canadians, including members of this chamber, fly through the Toronto airport.

As honourable senators know, the Minister of Transport has announced substantial rent relief for Canada's airports. With respect to the Greater Toronto Airports Authority, he has announced that there will be a \$5 billion present value savings over the life of the current Toronto airport lease. That means a reduction from \$8 billion, the current rental obligation, to \$3 billion. Toronto will receive 63 per cent in savings, while the remaining airports will receive an average of 55 per cent in savings over the life of their leases. This is the second highest percentage of savings amongst the top nine airports.

Savings for the Greater Toronto Airports Authority will start at 5 per cent for the first five years; beginning in 2012, it will be 62 per cent; and in 2017, it will be 75 per cent. Further, the savings will remain at over 70 per cent for more than 20 years starting in 2017, in comparison with the old formula.

Senator Tkachuk: Honourable senators, it is not as though this issue has not come up before about airport rents and the high cost of same. After a lot of tongue-wagging, screaming and yelling from the airports, we changed the rent.

Perhaps the honourable leader could table any studies or consultation processes in which the government engages when it sets these rents in the first place so that we do not have to go through all of this indecision and arguing over something that should be negotiated, not something that is imposed.

Senator Austin: Honourable senators, a number of airports in Canada are run by autonomous airport authorities. These are the result of policies that were first suggested, I believe, by the Mulroney government. The first leases were negotiated during the time of that government. With the exception of the Greater Toronto Airports Authority, all of the others have accepted, with varying degrees of pleasure, the changes that the Minister of Transport has announced.

With respect to the Toronto airport, the Minister of Transport has indicated that part of their problem is self-created. It has nothing to do with rent; it has more to do with debt.

As all of us who have been through the new Terminal 1 at Toronto airport know, the Greater Toronto Airports Authority has built a magnificent terminal arrangement. They also spent several hundred million dollars on the construction of Terminal 3. They did that by borrowing. Therefore, their debt burden is quite large in terms of the revenues which they normally receive, and that has put pressure on their balance sheet.

The result, of course, is that they must go to any other creditors that they have, including the Government of Canada under its leases, and try to obtain relief from them, either by reducing their obligations or by trying to increase the revenues that they have from commercial leases. They have a difficult problem. However, it is not one that was created by the Government of Canada.

Senator Tkachuk: I think it was created by the Government of Canada. We have the same issues arising at the Saskatoon airport from time to time. They too have been complaining about the high cost of airport rents.

The airports were paid for in full by the taxpayers of this country. What economic formula does the Government of Canada use in charging rents to these non-profit organizations that have been set up across the country?

This was a good policy brought in by Mr. Don Mazankowski. These non-profit organizations seem to be managing the airports well. It is not right to blame the Toronto airport for high costs. They charge a fee. They have a hard time obtaining business because the fee is charged per traveller, to help with the costs of building and to pay for the expansion plans. They need business to do that. By charging too much rent, you are preventing that business from taking place, therefore making it more difficult for the airport authority to pay down their debt.

I would like to know what economic formula is used by the Government of Canada in setting the lease or rent rates for the Toronto airport, the Saskatoon airport and other airports across the country.

Senator Austin: Honourable senators, I would be delighted to make inquiries with respect to the information that Senator Tkachuk is asking me for. I hope he understands, however, that given the motion of non-confidence which his leader in the other place has put on the Order Paper, I may not have the time left to provide the information.

HEALTH

CANADIAN FOOD INSPECTION AGENCY— ASIAN FARM FISH— PRESENCE OF MALACHITE GREEN

Hon. Gerald J. Comeau: Earlier this week, on Tuesday, the CTV aired a program regarding the use of highly toxic chemicals to kill parasites in Asian fish, and that fish is now making its way to Canadian tables.

Is the Leader of the Government in the Senate aware of that? If so, what actions have been taken, or undertaken, by the government to ensure that Canadian consumers are protected from any trace elements that remain in this farm-raised fish?

Hon. Jack Austin (Leader of the Government): Honourable senators, I also saw that television program, and it dealt with traces of malachite green in imported fish.

It is the obligation of the Canadian Food Inspection Agency to sample and test aquaculture fish products for that chemical, Malachite Green. The agency conducts 100 per cent surveillance of all products that arrive from Vietnam. Of course, to state the obvious, if at any time the testing produces any trace of malachite green, the product is not allowed into Canada.

The Canadian Food Inspection Agency is following up on the CTV reports, but I am advised that CTV has refused to provide any specific details with respect to those reports.

FISHERIES AND OCEANS

PROCESSING AND MARKETING OF FISH PRODUCTS

Hon. Gerald J. Comeau: Honourable senators, my follow-up question relates to one I asked some weeks ago regarding our own Canadian products and how we are shipping them overseas to Asian countries for further processing, where such processing is done at a much cheaper rate because of cheap labour rates and lax environmental laws.

Would this not indicate that we should, as Canadians, look at the possibility of developing a Canadian-produced product that would measure well against those types of products?

I think we could probably get a premium for our Canadian fish if it were to be measured against products coming in from other countries, rather than for us to be associated with some processing here in Canada and further processing in other countries.

• (1430)

This follows up on what I was trying to raise at that time. We should probably not have our raw materials sent outside of Canada but rather do that processing right here in Canada.

Hon. Jack Austin (Leader of the Government): Honourable senators, I well recall the question that Senator Comeau put to me on processing in Canada, and there are two ways to answer it. First, I acknowledge that the responsibility for the processing and marketing of fish products is that of the private sector. Ultimately, they will make decisions with respect to market acceptability of the product and to the financial requirements of their own corporations.

Having said that, I agree entirely with Senator Comeau that if Canada can be known around the world for producing and selling a premium product, one that assures the customer that there can be no better product in terms of its freshness and safety, in my view that is by far the best marketing plan for Canada.

The next and final step would be, of course, hopefully, to control all the elements of that quality process in Canada, but, as Senator Comeau knows, that is essentially a decision for the private sector.

Senator Comeau: Far be it from me to try to interfere with private sector decisions. However, the fisheries resource is owned by the Canadian people. It is held in trust by the Department of Fisheries and Oceans but actually belongs to the Canadian people. The private sector is allowed licences — a privilege, not a right — to tap into that resource. In fact, we do have a means by which we can influence, but not necessarily dictate, the way the private sector handles the use of a resource that is owned by the Canadian people and held in trust by the Department of Fisheries and Oceans. The government does have some leeway as to whether it allows the private sector to ship our resources to cheap-labour countries for processing.

Senator Austin: Honourable senators, I agree in part and I have difficulty in part with Senator Comeau's proposition. I agree that under the Constitution the resources of the sea are the responsibility of the federal government. The federal government has the responsibility for assigning rights, whether long or short term, to Canadians with respect to harvesting and yield. The question of whether that right should trace itself all the way up to the marketing of this fish is an interesting policy question. Where we do not disagree is that the Government of Canada would be well advised to create incentive programs for the private sector to market the very highest quality of product internationally.

THE ENVIRONMENT

POLICY ON EMISSIONS REDUCTION TARGETS—USE OF RENEWABLE ENERGY—OFFSET POLICY

Hon. Elaine McCoy: Honourable senators, my question is to the Leader of the Government in the Senate. Let me preface the question by referring to the offset system in the consultation papers, overview and technical paper issued by the Government of Canada in August of this year. Let me also say that they were eagerly awaited and gratefully received.

Consultation was requested in the form of written communications, and that has been ongoing, as have discussions, in a limited way, between departments across Canada. They are good in many ways and, as members of the Standing Senate Committee on Energy, the Environment and Natural Resources discovered when they discussed this issue with the OECD last September, they do encourage renewable energy and use economic policy instruments that are well appreciated.

However, as always, the devil is in the details. Some of the details in this particular proposal involve using a national intensity factor to compute greenhouse gas reduction credits all across Canada for small, non-emitting electricity production facilities. That means that if a company puts up a windmill in Nova Scotia, it will be penalized 350 per cent on its credits because instead of computing greenhouse gas reductions against the coal that is used in Nova Scotia to make the electricity, a national factor is used, one that takes into account Manitoba, B.C. and Quebec hydro, which of course lowers the average.

Yesterday it was announced that an agreement was reached between the Government of Canada and the Government of Quebec. It included a factor for that province in its emissions reductions target that takes into account their lower-emitting hydroelectricity projects. Does this indicate a shift in policy that will be applied to the non-emitting, small, renewable electricity generators in the offset policy?

Hon. Jack Austin (Leader of the Government): I thank Senator McCoy for the question, honourable senators, but obviously I am not in a position to give the honourable senator a definitive answer at the moment. I will make inquiries. I think the question raises a logical argument.

Senator McCoy: Honourable senators, a company in Nova Scotia has estimated that if the policy that is on the table now continues unabated, it will cost Nova Scotia and its provincial economy \$14 million a year. There is some suggestion from the civil service that they wish to push through this offset policy by January 1, 2006. We are now facing some uncertainty as to whether there will or will not be a dissolution of Parliament, but there is no question that, in our experience in Alberta, we have been having fruitful discussions with the minister. Can the Leader of the Government in the Senate give this chamber his assurance that there will be no finalization of that offset policy until such time as the election is finished and we can have the full attention of the federal minister?

Senator Austin: Honourable senators, I am not in a position to give such an assurance. The circumstances of the future are obviously unknown to me, but I will add the supplementary question to the information I will give the Minister of the Environment.

FINANCE

PROPOSAL TO REDUCE GOODS AND SERVICES TAX

Hon. Lowell Murray: Honourable senators, in view of speculation, apparently well-informed, that at least one of the opposition political parties will make a platform promise to reduce the GST, and in view of the fact that this hypothesis is being denounced in advance by the government, as one who had the enjoyable responsibility 15 years ago this fall of getting the GST through this chamber, and on behalf of all those senators on both sides, past and present, living or dead, who took part in that exercise, may I ask whether it is at all conceivable that this Liberal government will campaign on the slogan, "Vote Liberal, save the GST, touche pas la TPS"?

Hon. Jack Austin (Leader of the Government): Honourable senators, the question is intriguing. I am not certain that any political party is committed to campaigning on the reduction of the GST, although there have been stories to that effect.

• (1440)

I am sure that the Senate would take account of the interesting advice of an economist and former member of the other place from British Columbia, Herb Grubel, who was quoted in *The Vancouver Sun* on November 22, 2005. He said: "Cutting the GST rather than business or personal income taxes may be good policy but is definitely very bad economics."

Hon. Marcel Prud'homme: At the rate the government is spending, is there a possibility that rather than lower the GST, the government might have to increase the GST rate?

Senator Austin: Honourable senators, there is no possibility of that whatsoever because of the superb fiscal management by this government of the Canadian economy.

NATIONAL DEFENCE

PROPOSED EQUIPMENT EXPENDITURES

Hon. J. Michael Forrestall: Honourable senators, I have no pertinent questions today except to ask the Leader of the Government in the Senate whether he would use his good offices over the next few weeks to ensure that contracting for new equipment, particularly with respect to fixed-wing aircraft, is done in an open, competitive way where the specifications for such equipment are not tailored to meet the only available supply?

Hon. Jack Austin (Leader of the Government): Honourable senators, I can say with complete certainty that the process will be open and transparent, and will be directed towards the needs of the Canadian military as they assess them.

Senator Forrestall: The honourable leader's response leads me to suggest that he have a very Merry Christmas, and to send my best wishes to his staff, who have failed over the duration of this rather short-lived Thirty-eighth Parliament to bring the leader into touch with military matters and, above and beyond all, the process of procurement of equipment therefor.

Senator Austin: I thank the Honourable Senator Forrestall for his sentiment and send the same to him.

INDUSTRY

NEW RULES FOR LOBBYISTS—PROCESS FOR LODGING COMPLAINTS—POLICING OF INDUSTRY

Hon. Madeleine Plamondon: My question on lobbyists is for the Leader of the Government in the Senate. I am happy that the Liberals plan to toughen the rules for lobbyists, because I was quite dismayed about what happened when I presented Bill S-19. I found out, very late in the process, that the bill had had 21 lobbyists, one of whom, according to his website, was in the service of the government while acting as a lobbyist. I contacted the Prime Minister's office and the dates on his website were changed the next day. Even so, it had not been one full year since the termination of that individual's government employment.

Does the honourable leader have a draft version of the proposed new rules in respect of lobbyists that the Liberal government wants to implement? Some say that there are fairly significant changes. As well, it has been said that the government does not have sufficient resources to apply the existing law. Does the honourable leader have any information to add?

If I may, I would like to ask my second question. Currently, individuals found guilty can choose between a fine or having the complainant go to the RCMP. Does the leader of the government think that it is better to lodge a complaint with the RCMP? What is the best way to lodge such a complaint with the RCMP? The cooling-off period is one year, but I found in my experience that some people are not waiting the full year before taking up as lobbyists. The people contacted are always the same at Finance Canada, Industry Canada, Justice Canada, et cetera. Is that monitored? Does someone check to determine whether the lobbyists are in the employ of the government or whether they have waited the full one-year cooling-off period? Further, is that only a directive or is it the law? If it is the law, does it have teeth?

Hon. Jack Austin (Leader of the Government): The honourable senator has raised a number of points. First, I am concerned if Senator Plamondon is suggesting that an official in the Prime Minister's office is acting both as an official and as a paid lobbyist for an organization. If she has further information for me on that, I would be happy to receive it.

With respect to the current law relating to lobbyists, as honourable senators know, I am not able to give the answers to legal questions in the chamber. However, the Minister of Industry, who is the minister responsible for the Lobbyist Registration Act, has substantial changes in mind for the practice of lobbying. There is no legislation to which I could refer at this time but there is active consideration of changes.

I would further say that the honourable senator's questions need to be precisely framed if she wants the answers that I am able to provide. The matter of the rules that apply to members of the Prime Minister's staff, or any minister's staff, are set out by the Prime Minister under the Code of Conduct, which has been made public and is widely circulated. The honourable senator can find it on the Internet on the Prime Minister's website.

Senator Plamondon: I was referred to the website when I called the PMO. That was where I found Nichola Ruszkowski, Director of Communications, Office of the Leader of the Government in the House of Commons and Minister Responsible for Democratic Reform, December 2004 to September 2005. The bill was still pending during that time and, at the same time, he is registered as a lobbyist for Bill S-19. When I contacted the Prime Minister's Office, someone called me back and said that the date was wrong, although my office had called the individual and was told that the information was correct. However, information was requested from the Privy Council Office, and they confirm that the dates are January 12, 2005 to October 20, 2005. This was changed to December 2004 to August, 2005. Yet, even if the second correction is right, it is still not one full year after his termination.

• (1450)

My concern is with the new law, and what the Prime Minister wants to do. I think it is quite good, and your government should be commended on that. However, I want to know if it will cover situations such as the one I have just described. The current registrar of lobbyists, Michael Nelson, in a recent article, said that he does not have enough resources to properly police the lobbying industry.

The Hon. the Speaker pro tempore: I am sorry, senator, but the time for Question Period has expired. If Senator Austin can reply briefly, I will take the answer.

Senator Austin: Certainly. I will study the honourable senator's question to see what she is seeking. I will make inquiries but perhaps, given the political circumstances, the best way for me to respond to the honourable senator would be by letter.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present two delayed answers to oral questions raised in the Senate. The first is in response to a question raised on October 18 by Senator Forrestall regarding the replacement of maritime helicopters. The second is in response to a question raised on November 24 by Senator Cochrane regarding Citizenship and Immigration, proposal to admit new immigrants.

NATIONAL DEFENCE

REPLACEMENT OF AIRCRAFT—OMNIBUS PURCHASE

(Response to question raised by Hon. J. Michael Forrestall on October 18, 2005)

On November 23, 2004 the Government signed two contracts to acquire 28 CH-148 Cyclones. The CH-148 is the right maritime helicopter for the Canadian Forces at the best price for Canadians.

Sikorsky was selected the winner as a result of a fair, open and comprehensive evaluation. Canada's new Maritime Helicopter meets all of the Canadian Forces' operational requirements. Delivery of the first helicopter is required to be no later than November 2008. The contract has a series of bonuses for early delivery but also imposes penalties for late delivery, making it in the company's interest to deliver the helicopters as soon as possible.

The total value of the two contracts is approximately \$5 billion. The acquisition contract covering the 28 helicopters is valued around \$1.8 billion, while the 20-year In-Service Support contract is approximately \$3.2 billion.

Awarding a long-term, in-service support contract to the same company supplying the helicopters is designed to promote the lowest cost over the life-cycle of the aircraft, place accountability for the quality of the product on the manufacturer, and thereby reduce the risk to the Government.

The contract covering the acquisition of the new helicopters will conclude with the delivery of the equipment, while the contract for in-service support is for an initial period of 20 years, with an option to extend for as long as the helicopter remains in service with the Canadian Forces.

CITIZENSHIP AND IMMIGRATION

PROPOSAL TO ADMIT NEW IMMIGRANTS— ABILITY TO PROCESS APPLICANTS

(Response to question raised by Hon. Ethel Cochrane on November 24, 2005)

The Department of Citizenship and Immigration is resourced to deliver on the levels that are tabled each year in Parliament and has consistently reached its targeted immigration levels for each of the past five years. In order to achieve these levels, the overseas network has processed an average of 275,000 applications for permanent residence each year for the past five years. The 2005 Annual Report on Immigration, as presented to Parliament on October 31, 2005 indicates that in 2006 Canada intends to admit between 225,000 and 255,000 new permanent residents. CIC expects to meet this planning range.

Despite the fact that the Department consistently meets the targeted immigration levels as approved by Parliament, there remains a significant inventory of applications to be processed overseas and in Canada. Applications for over 745,000 persons are currently waiting to be processed overseas. At the same time, application intake in many categories is increasing.

In categories that have been made priorities for the Department, processing times are good and continually improving. For example, processing times for spouses, partners and dependent children at overseas visa offices have shortened considerably. While in 2003 44 per cent of applications were processed in 6 months or less, in the last 12 months 61 per cent were processed in 6 months or less.

Processing times in certain categories remain lengthy and are getting longer because some programs have demands that exceed current policy objectives and service delivery capacity.

The Minister has announced plans to raise levels in the future, to move toward a long-term approach on immigration planning and to improve the current system so that applicants can be processed more quickly. If Parliament approves increased levels for immigration, the Department will deliver, as it has for each of the past five years.

Parents and Grandparents

On April 18, 2005, following the Minister of Citizenship and Immigration's announcement, visa offices were given instructions that tripled previous visa targets for parents and grandparents, with the goal of increasing landings from 6,000 to 18,000 persons. Targets were assigned so that the oldest applications would be processed first. As a result, the New Delhi office's target was quintupled — a reflection of its large inventory of cases.

Increased output began immediately after the announcement and visa offices have approved in principle the applications of over 19,000 parents and grandparents, and have already issued over 13,000 visas. As of November 13, over 8,300 parents and grandparents have landed in Canada in 2005.

Due to the timing of the announcement CIC estimates that the large majority of visas would be issued in the August to December period. Permanent residence visas are issued with a validity period of 8-12 months for most applicants, based on their medical results. Thus, issuing 18,000 visas in 2005 does not necessarily translate into 18,000 immigrant landings by December 31, 2005. Given the fact that many visa recipients wait months before departing for Canada, total arrivals are likely to fall within the range of 12-16,000. The remaining holders of visas issued in 2005 will arrive in 2006.

Prior to the announcement, sponsorship applications received after June 2003 at the Case Processing Centre in Mississauga (CPC-M) had not yet been processed since there was already a large inventory of cases at visa offices abroad. Subsequent to the Minister's announcement, CPC-M began requesting updated information and, in September, recommenced the assessment of applications. CPC-M will process about 1,020 cases (over 2,300 persons) per month.

Citizenship and Immigration is looking at ways to recognize the labour market contributions made by out-of-status workers — individuals living and working in Canada without legal status. However, moving forward on this issue will require a balanced approach that recognizes their contributions while maintaining the integrity of the immigration program and making it clear that breaking the rules is not acceptable. CIC is presently developing options and will continue to work toward a solution with its key partners.

NATIONAL DEFENCE

AFGHANISTAN—LOSS OF LIVES—TRIBUTE

Hon. Marcel Prud'homme: Honourable senators, just before we proceed to Orders of the Day, and I am sure Your Honour will tell me if this is not an appropriate time, but I am sure honourable senators would like to have a moment of silent prayer because a Canadian soldier has just been killed in Afghanistan. One Canadian was killed and four were injured in an accident.

I think it would be appropriate to remind ourselves, while we celebrate Christmas, of the tragedy that some Canadians serving their country are going through at the moment, and offer their families our sympathy and prayers.

Hon. Jack Austin (Leader of the Government): Honourable senators, I thank Senator Prud'homme for his statement. If it is agreeable to the chamber, I believe recognition would be appropriate by a moment of standing silence.

Honourable senators stood in silent tribute.

[Translation]

ORDERS OF THE DAY

TELECOMMUNICATIONS ACT

BILL TO AMEND—THIRD READING

Hon. Claudette Tardif moved the third reading of Bill C-37, to amend the Telecommunications Act, as amended.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Hon. Senators: Question!

Motion agreed to and bill, as amended, read third time and passed.

[English]

LIBRARY OF PARLIAMENT

SECOND REPORT OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Joint Committee on the Library of Parliament (appointment of Mr. William Robert Young to the office of Parliamentary Librarian) presented in the Senate on November 23, 2005.

Hon. Marilyn Trenholme Counsell: I move the adoption of the report.

[Translation]

Hon. Eymard G. Corbin: Honourable senators, I would like to make a few comments and question some things. First, I want to say that I do not personally know the proposed candidate for the office of Parliamentary Librarian. This individual may have

been present at some meetings, including those of the Joint Committee on the Library of Parliament, but I have no recollection of that. So, the comments that I am about to make are non personal in nature, and I want to stress that.

What are of interest to me are the position and its requirements. Before continuing, I want to point out to the Senate that, in the second report submitted by our colleague, Senator Trenholme Counsell, paragraph three provides that a copy of the relevant minutes of meeting No. 5 is tabled in the House of Commons. Those minutes were not tabled in the Senate. I find that unacceptable. I was told that this document must be tabled in the House of Commons under its Standing Orders. Why not table it in the Senate at the same time? Since this is a joint committee of the Senate and the House of Commons, we have a right to take into consideration the minutes of the committee's proceedings, or at least to be informed of them.

Having said that, I have with me the so-called unedited version of the evidence of the Standing Joint Committee on the Library of Parliament. That version does not include the minutes. Moreover, after its public hearing, the committee held an in camera meeting. We do not know what happened during that meeting, but surely some decisions were made. We are in the dark as regards certain quasi legal procedures.

• (1500)

We have the committee's second report, as I mentioned earlier, the second paragraph of which states, "The Committee approves the appointment of Mr. Young to the office of Parliamentary Librarian."

The office of Parliamentary Librarian is a very prestigious one, both nationally and in parliamentary circles. This is one of the most prestigious positions in the library community. I must assume that there was an open and public call for candidates for the position. I made inquiries. Apparently some individuals had asked how many candidates had applied and were told that this information was not available. These are just a few preliminary comments that may prove relevant later.

I examined the linguistic profile required for this bilingual position. I noted, upon examination, that candidate had Public Service of Canada qualification "ECC." I asked what this qualification meant and, unfortunately, I did not receive the explanation of this linguistic profile in time. However, informally, I was told that "E" stands for exemption.

I met privately with various members of the committee, whom I will not name — the conversation was confidential and, as a senator, I think I have the right to get information from the appropriate sources. I was told that the candidate was perhaps bilingual but not very strong in French. I want to insist on this point here.

As I indicated, the office of Parliamentary Librarian is a prestigious one. We know the care that the House has taken over the years in examining candidates for parliamentary positions, including that of Auditor General, Commissioner of the Official Languages and Privacy Commissioners, to name just four or five that you know as well as I do. I believe that, in each case, the

Senate ensured that the applicants had not only satisfactory but rather exceptional linguistic qualifications; meaning that the candidate is able to function in both languages, in terms of both oral and written proficiency.

It is my duty to bring attention to this matter. I am the chair of the Standing Senate Committee on Official Languages. This is not a matter of narrow interest, but a matter of official policy of the Government of Canada and its parliamentary institutions. It has been established since 1969 that federal parliamentary institutions are bilingual in character. As a result, the government has a primary obligation, when proceeding by order-in-council, to ensure that applicants meet that high standard. This is primarily in the public interest, but also in the interests of each of us.

Judging by the evidence of that meeting of the Official Languages Committee, it seems the Senate is the top customer of the Library of Parliament, ranking even above the House of Commons. I personally make use of its services rather often. I have had the opportunity of meeting the former Parliamentary Librarian, Mr. Richard Paré, who retired last year. Mr. Paré was perfectly bilingual.

That said, I would like someone to assure me that the candidate recommended by cabinet for this position does indeed possess a high degree of competency in both official languages. I attach a great deal of importance to that qualification, not only for myself, and not only out of concern for the members of the Standing Senate Committee on Official Languages, but also for the employees of the Library of Parliament. Obviously, this person will need to be in contact daily with subordinates, and to organize both public and private meetings. His duties will often require him to receive foreign delegations. I therefore feel it is vital for the Parliamentary Librarian to be able to communicate readily in both official languages.

I was amazed to see that this ability was not looked into when the candidate was examined in the joint committee. I think that the Senate should verify this point. When we examine the candidate for Commissioner of Official Languages or Auditor General in the Senate, we can satisfy ourselves immediately that the individual does possess the language requirements, because we can hold a conversation with him or her.

I would therefore have a question for our esteemed colleague, the Honourable Senator Trenholme Counsell. Could she tell us whether the committee is fully satisfied with the language skills of the candidate for the position of Parliamentary Librarian?

Senator Trenholme Counsell: Honourable senators, I will attempt to answer in French. You will notice that I have some difficulty with my second language. However, I appreciate your question.

The committee heard Mr. Young during more than 30 minutes. In our discussions, both official languages of this country were used. Mr. Young answered each question clearly, exhaustively and satisfactorily, in French and in English alike. This satisfied the committee as to his ability to communicate effectively in both our official languages. Of course, like me and many other English speakers, he had some difficulty. But I think that this is true of members of both linguistic communities in our country. I will tell you also that M. Young made his presentation to our committee

in both official languages. I want to assure you that the committee was satisfied with his ability to communicate in both official languages.

• (1510)

Senator Corbin: Thank you.

Hon. Marcel Prud'homme: Honourable senators, first I want to thank and commend Senator Trenholme Counsell. When you make the effort, you can express yourself in either language and Senator Trenholme Counsell is a fine example of that. When I first arrived in Ottawa, I did not speak English. With some effort, we manage to understand one another. I often ask her how to pronounce certain words in English. That is how Canadians can work together in harmony.

[English]

I do not want to cast any doubt on the integrity and the suggested wisdom, which I believe my colleague has shown in the high job she has occupied in a province where it has not always been easy to be French speaking. She was the Lieutenant Governor of that province. Therefore, my comments have nothing to do with personality or criticism. They are about the process.

Again, this is not a criticism; it is a comment. Honourable senators will remember that I said, prior to this being sent to committee, that I would have preferred to have this high officer, as Senator Corbin has pointed out — appear here because I deal with the library. My office is always dealing with the library. As Mr. Trudeau used to say, "Do not start bothering me with bilingual elevator people." Go to the top, and at the top it flows back down to the elevator people, who I had a great deal of respect for in the old days. We do not have elevator people anymore; we have to push our own buttons. However, when I arrived, people used to run the elevators. People were mad and they always attacked the wrong person. If you insist on that from the top down, the message gets down. That was the Trudeau way and that is my way.

I regret that my esteemed colleague, Senator Kinsella, did not insist this time. It was because of his precedent that we had these high officers appear in front of the Senate. It may serve us in the future to be slow and not to be afraid to take our time because we may have to live with this man for 20 years. Long after I am gone, he will still be there.

For the people who are masters of a language, to work for someone who may take a long time to answer their request, do as I do when people are too slow in French at a cocktail and dinner reception and they think I am a teacher. They start speaking in French very painfully and I would rather switch to English: otherwise the evening is ruined. Most likely the same goes for people who do that with broken English. The process and the fact that the person is appointed and then, after that, staff, it reminds me of what is going on in the justice committee at the moment. It is a small committee tenu au secret.

They are given a list of six possible names that are pre-chosen, and they chose among these six. "Recommend some to me, Minister of Justice, and I shall recommend to the Prime Minister who should be the next justice for the Supreme Court from

Western Canada." I totally disagree with the process. I like the old process, where the Prime Minister takes ultimate responsibility for a bad nomination and a good nomination. I will stand all my life for the old choice. The Prime Minister, and every Prime Minister, have made good choices for the Supreme Court of Canada. I defend the process because people are under the impression that these people come from a patronage list. Well, the process is much different.

Judge Antonio Lamer was a long-time friend in the Young Liberals, and then he forgot about politics. He used to tell me that the process is much more elaborate than that. The consultation is unbelievable, with the local bar, the national bar, the RCMP and CSIS. When the Minister of Justice arrives with a proposal to the Prime Minister, the Prime Minister exercises, as he should, his ultimate choice, and then he takes the ultimate responsibility. That is what I want: ultimate responsibility.

We cannot blame Senator Trenholme Counsell. She was given that name. They listened to him and they found out that maybe he is the best man. I do not know the gentleman. Maybe I dealt with him, because I deal with the library often. Again, I want to wish him good luck if he is the successful candidate, and it seems he will be. However, next time there is an officer appointment I call on Senator Kinsella — to reinstitute his very good proposal. If by any chance he was to sit on the other side after the next election you never know what happens in life - he will have the same idea that Senator Kinsella had of by continuing the process that works well in the Senate. In the Committee of the Whole we have seen these high officers appear and be treated, not like in the House of Commons, like a circus atmosphere, but highly treated. It was good for the Senate; it was good for our reputation, and then senators take their responsibility. They are either for or against. We have done that in the past. I only want it to be positive. Perhaps it is my positive day, but after yesterday I am told I went too far, if that is the senator's inference. I mean my neighbour

I hope in the future, the Leader of the Government, Senator Austin, who I have known for so long, will reflect on that. If there are any other officers, it is a good way to enhance the role of the Senate because then we even bring in television and Canadians see the seriousness of the debate of the Senate. I regret that many of the major debates that took place in the Senate were not televised. Canadians will immediately say, "My God, what a serious bunch of people they are there." They should really put in the effort to be serious and show what the Senate is all about.

Honourable senators, I have said enough, but, again, I acted on the spur of the moment because when I was younger, in Manitoba, I used to pronounce differently and make everyone laugh on television. However, on the spur of the moment I said that we should have had this officer here on the floor of the Senate. Then everyone would be satisfied with the recommendation that is put forward now. That is taking nothing away from the comments made by Senator Corbin, because every time Senator Corbin speaks — and I have known him since 1968 — he is not as excited as I may be.

[Translation]

He is level-headed and thoughtful. He shares his wisdom and his thoughts with us. I thank him. I thank Senator Trenholme

Counsell for representing us with dignity at the official languages committee. I cannot say the same about certain members of the other place that I saw in action on that committee.

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, I want to commend Senator Corbin for his intervention, and also, of course, our colleagues Senator Trenholme Counsell and Senator Prud'homme. Of course I support the motion, but I would like to give the chamber some information about this situation because, frankly, there is a total lacuna in our rules with respect to the Parliamentary Librarian.

• (1520)

Section 75(1) of the Parliament of Canada Act provides:

The Governor in Council may, by commission under the Great Seal, appoint a Parliamentary Librarian to hold office during pleasure.

Therefore, this is purely the function of the Governor-in-Council.

Honourable senators will know that in parliamentary practice the other place has claimed a role through its rules. Of course, that is not something that legally a government need heed, but in terms of wise process the government of whatever day does pay attention.

Article 111.1(1) of the Standing Orders of the House of Commons provides:

Where the government intends to appoint an Officer of Parliament, the Clerk of the House, the Parliamentary Librarian or the Ethics Commissioner, the name of the proposed appointee shall be deemed referred to the appropriate standing committee, which may consider the appointment during a period of not more than thirty days following the tabling of a document concerning the proposed appointment.

Those are all appointments that can be made by the Governor-in-Council, but the House of Commons, in this instance and in others, has claimed a right to process. We have not done so.

Accordingly, in bringing the motion, Senator Trenholme Counsell brought a step to the chamber which claims a role, and appropriately so. I concur with the submission that this chamber should have a role with respect to parliamentary officers. Of course I agree with the arguments of Senator Prud'homme that the Parliamentary Librarian is a particularly important officer in the practices of the Senate.

I would like to suggest to the Standing Committee on Rules, Procedures and the Rights of Parliament and to Senator Smith, its chairman, that the committee take under its own authority consideration of a rule of the Senate that parallels the processes provided in the standing orders of the other place so that we can claim an entitlement to officially consider this appointment and put the Governor-in-Council on notice that we do have a role.

[Translation]

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I fully agree with the suggestion made by the Leader of the Government. In this second report, I found the last paragraph interesting. It reads:

A copy of the relevant Minutes of Proceedings (*Meeting No 5.*) is tabled in the House of Commons.

As a senator, if I want to look at the minutes of the preparatory work of that committee, I must go to the other place to do so. This is a good example. I agree with Senator Austin's suggestion that the Standing Senate Committee on Rules, Procedures and the Rights of Parliament should review this issue.

As regards Mr. Young's appointment to the Library of Parliament, it would be advisable to have a meeting of the Committee of the Whole in the Senate. This is one option, but there are others. We also have the Standing Joint Committee on the Library of Parliament, on which both houses are represented.

It is important that we have access to the minutes of this joint committee. Of course, the proceedings of standing or special Senate committees are an extension of the work of the Senate itself. In this sense, the review made by our colleagues on the joint committee is the equivalent of a review made in the Senate. This is why I support the adoption of this report.

[English]

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

CANADIAN HUMAN RIGHTS ACT

BILL TO AMEND—SECOND READING— SUBJECT MATTER REFERRED TO COMMITTEE

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Meighen, for the second reading of Bill S-45, to amend the Canadian Human Rights Act.—(Honourable Senator Rompkey, P.C.)

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, we propose that the subject matter of this bill be referred to the Standing Senate Committee on Human Rights, and that the item stand in its place on the Order Paper pending the return of the report of the committee.

The Hon. the Speaker pro tempore: Is that agreed, honourable senators?

Motion agreed to.

• (1530)

THE SENATE

MOTION TO EXTEND GREETINGS AND BEST WISHES TO MEMBERS OF ARMED FORCES ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), for Senator Di Nino, pursuant to notice of November 3, 2005, moved:

That the Senate extend greetings and best wishes to the members of the Canadian Forces for their invaluable contribution to international peace and security;

That the Senate offer praise in particular to the brave group of men and women serving in Afghanistan, a dangerous and difficult mission, but one which is improving the lives of millions of Afghans and directly contributing to the safety and security of all Canadians; and

That a message be sent to the House of Commons requesting the House to unite with the Senate for the above purpose.

He said: Honourable senators, I previously had words with Senator Di Nino, and I know that he would like to have this motion passed today, particularly in view of the sad news raised by Senator Prud'homme at the beginning of the session and the honour that was paid by the chamber. I move that we adopt this motion.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

The Senate adjourned until tomorrow at 9 a.m.

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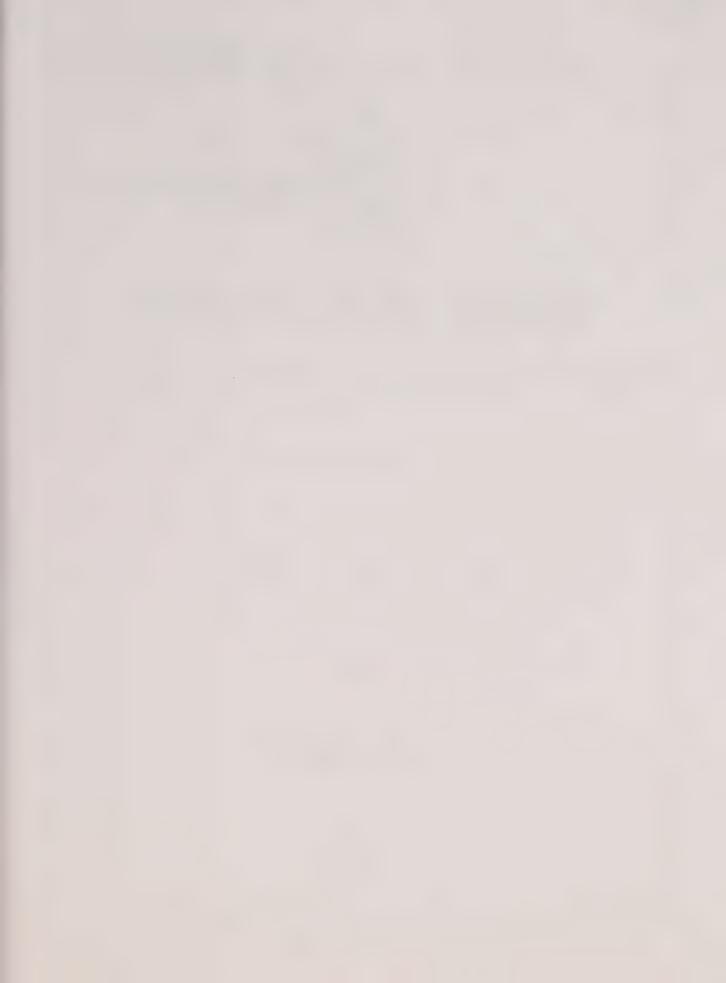
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OFFICIAL REPORT (HANSARD)

Friday, November 25, 2005

THE HONOURABLE SHIRLEY MAHEU SPEAKER PRO TEMPORE

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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193

THE SENATE

Friday, November 25, 2005

The Senate met at 9 a.m., the Speaker pro tempore in the chair.

Prayers.

SENATORS' STATEMENTS

NATIONAL DEFENCE

AFGHANISTAN— DEATH OF PRIVATE BRAUN SCOTT WOODFIELD

Hon. Jack Austin (Leader of the Government): Honourable senators, I would like to add a few words to the information we were first informed of by Senator Prud'homme regarding the death of a Canadian soldier in Afghanistan.

Yesterday, one of the Light Armoured Vehicles operated by members of the Canadian Forces overturned on a highway in Afghanistan. The accident involved members of the Golf Company, 2nd Battalion of the Royal Canadian Regiment, who were conducting a routine patrol near the village of Lagman.

This accident caused the death of Private Braun Scott Woodfield. Private Woodfield was 24 years old, born in British Columbia, and lived in Eastern Passage, Nova Scotia.

Also injured were private Paul Schavo of London, Ontario; Corporal Shane Dean Jones of White Rock, British Columbia; Sergeant Tony Nelson McIver of Fredericton, New Brunswick; and Corporal James Edward McDonald of Pembroke, Ontario. None of these injuries was reported as life-threatening.

This tragedy reminds Canadians that as every member of the Canadian Forces works on behalf of others, they place themselves in continued risk as they carry out their duties.

I want to offer the sincere sympathies of this chamber to the families of Private Woodfield and the three soldiers who were injured.

Hon. Consiglio Di Nino: Honourable senators, I, too, would like to take a few moments to reflect on what happened in Afghanistan.

As most honourable senators know, I spent a week in August visiting the 2 Combat Engineer Regiment there. I travelled a number of times in the LAV, the vehicle that took the life of Private Woodfield. I can tell you the troops were delighted to have been given these new, safe vehicles.

I take you back several years to when we lost soldiers in Afghanistan because the equipment did not protect against land mines.

Indeed, this new vehicle, I was assured, was designed in such a way that the vehicle might, in effect, come apart, but the

protective shield around the soldiers would stay intact. This incident did not involve a land mine. Obviously, it was an accident. I do not know whether, as has been suggested, it was known that this might happen, but it is a tragedy.

I rise today to join with my honourable friend across the way in his sentiments to the families, because I found out last night that Private Woodfield is the nephew of a good friend of mine from Cambridge, Ontario. The family is distraught, as honourable senators can appreciate. It brings home my personal experience there and the fact that we have courageous and wonderful young men and women who are there to protect peace and justice around the world. When occasionally we are faced with the situation we are faced with today and lose the life of one of our soldiers, it is a tragic moment for us all.

I join with Senator Austin in extending our condolences and sympathies to the family, to the forces and to all who knew Braun Woodfield.

[Translation]

ROYAL ASSENT

The Hon. the Speaker pro tempore informed the Senate that the following communication had been received:

RIDEAU HALL

November 24, 2005

Mr. Speaker,

I have the honour to inform you that the Right Honourable Michaëlle Jean, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 24th day of November, 2005, at 3:47 p.m.

Yours sincerely.

Barbara Uteck Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills assented to on Thursday, November 24, 2005:

An Act to Amend the Criminal Code and the Cultural Property Export and Import Act (*Bill S-37*, *Chapter 40*, 2005)

An Act to amend the Official Languages Act (promotion of English and French) (Bill S-3, Chapter 41, 2005)

An Act to amend the Food and Drugs Act (Bill C-28, Chapter 42, 2005)

(0910)

[English]

THE LATE CHARLES V. KEATING, O.C.

Hon. Jane Cordy: Honourable senators, it is with sadness that I rise today to honour Charles Keating, who died of cancer on Tuesday of this week. Charlie Keating was born in Dartmouth in 1933 and he lived life to the fullest. He was a great Dartmouthian and Nova Scotian who helped so many, sometimes publicly, but often privately behind the scenes. He was a charismatic, bigger-than-life man who stood well over six feet tall, with a booming voice and hardy laugh. One always knew when Charlie was in the room.

Charlie attended St. FX University and graduated with an engineering diploma. He actually had to convince the university to allow him to enrol in engineering because he had not finished high school and did not have the academic credentials. Whoever made this decision was very wise because Charlie Keating never forgot his beloved St. FX. He gave a gift of over \$5 million to the university for the Charles V. Keating Millennium Centre, which opened in 2001. He wore his X ring with great pride and his four children are all graduates of the university. In fact, when his on suggested that he might attend another university, Charlie said that Gregg could make that decision, but if he wanted his father to pay, he would do so only if he went to St. FX — a bit of gentle persuasion, I guess.

In addition to serving as director for a large number of companies, Charlie served on more than 40 community boards and charities during his life. In 1994, he was recognized as the Outstanding Individual Philanthropist in Atlantic Canada. He is a member of the Order of Canada and was inducted into the Nova Scotia Business Hall of Fame.

When Charlie became Chair of the QEII Hospital Board, the largest hospital in the Atlantic region, he put a cot in the basement and slept there often. He told his family that he would get to know the cleaning staff first and then work his way to the brain surgeons.

Charlie Keating was a respected businessman, a community leader and a philanthropist. He had a zest for living and a passion for what he believed in. He will be missed by all Nova Scotians, but particularly by those of us who knew him well in Dartmouth. My heartfelt condolences to his children: Gregg, Anne Marie, Cathy and Susan.

[Later]

Hon. J. Michael Forrestall: Honourable senators, I should like to associate myself with Senator Cordy's remarks about a great Dartmouthian, a great eastern shore resident and entrepreneur, a great Canadian. The cable vision that we enjoy in this country today was long ago imprinted with Charlie's enthusiasm, his sense of what would happen in the future, and his determination as president of that association, among other associations of the Canadian cable industry.

Charlie and I grew up together. I am sorry that I am not in Halifax today. John Buchanan, former premier of that province and now our colleague here, will be in attendance, without question.

Charlie's role in all our lives, those whom I never knew and will never know, benefited from his humanism and civility, his care and concern, not just for himself but for his fellow human beings.

I say a prayer for Charlie. I wish his family every condolence from myself and Marilyn.

Hon. Jerahmiel S. Grafstein: Honourable senators, I wish to add my condolences. Charlie Keating was a lifelong friend. We met over 40 years ago. He was an active member of our party and an active supporter in all our political endeavours. I do not want the house to be confused with the fact that not only was Charlie a great Canadian, but he was a great and outstanding Liberal, a good friend and a stalwart. His energy, his creativity, his commitment and his passion, not only for the party but also for the country, was undiminished.

I was saddened to hear this morning that he had passed away. I am unhappy that I will not be able to attend his funeral, but to his family and to his friends, and on behalf of his friends in Ontario, we will miss him.

[Translation]

MS. BLANDINE JOURDAIN

CONGRATULATIONS ON ONE-HUNDREDTH BIRTHDAY

Hon. Aurélien Gill: Honourable senators, I would like to draw to your attention the coming one-hundredth birthday of an important figure in the aboriginal community of Uashat-Maliotenam, a Montagnais reserve in the Sept-Îles region of Quebec.

This coming February 4, Ms. Blandine Jourdain will reach the venerable age of 100. Her century of life is a special gift of nature and she has shared that gift with many in her community. All through her life, this courageous and wise Montagnais woman has put her wisdom and talents to the service of her community and others.

She has played numerous important roles within her community, often serving as the liaison between the members of her nation and the clergy, government health and administrative representatives.

Within her community this great lady is respectfully referred to as Nokum, meaning grandmother, and she is revered as a model and sage for her nation.

A musician, businesswoman and artisan in her day, Ms. Jourdain is first and foremost a caring mother. She devoted a great deal of her life to rearing her 14 children, 7 sons and 7 daughters, and has been blessed with more than 160 grandchildren and great-grandchildren.

The family has always been very high in her priorities. She can be justifiably proud of the contribution her children and their children have made to a number of sectors of activity in Canadian society. Ms. Jourdain is still very much in possession of all her faculties, and still lives on the Uashat-Maliotenam reserve near her family members. A devout Catholic, she still attends Sunday mass at the church where she played the organ for 25 years.

I would invite all honourable senators to join with me in wishing Ms. Blandine Jourdain a wonderful celebration of her hundredth birthday and many more happy years with her loved ones.

• (0920)

[English]

ROUTINE PROCEEDINGS

EXCISE TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Jerahmiel S. Grafstein, Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Friday, November 25, 2005

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

EIGHTEENTH REPORT

Your Committee, to which was referred Bill C-259, An Act to amend the Excise Tax Act (elimination of excise tax on jewellery), has, in obedience to the Order of Reference of Wednesday, November 23, 2005, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JERAHMIEL S. GRAFSTEIN Chair

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

Hon. Consiglio Di Nino: Honourable senators, with leave of the Senate, I move that the bill be read the third time later this day.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Hon. Madeleine Plamondon: No.

On motion of Senator Di Nino, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

STUDY ON ISSUES RELATED TO NATIONAL AND INTERNATIONAL OBLIGATIONS

REPORT OF HUMAN RIGHTS COMMITTEE— GOVERNMENT RESPONSE TABLED

Leave having been given to revert to Tabling of Documents

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the government response to the 18th report of the Standing Senate Committee on Human Rights entitled, Canadian Adherence to the American Convention on Human Rights: It Is Time to Proceed.

BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO EXTEND DATE OF FINAL REPORT
ON STUDY ON CONSUMER ISSUES ARISING
IN FINANCIAL SERVICES SECTOR

Hon. Jerahmiel S. Grafstein: Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on Tuesday November 16, 2004, and the Order of the Senate adopted on Thursday June 16, 2005, the Standing Senate Committee on Banking, Trade and Commerce, which was authorized to examine and report on consumer issues arising in the financial services sector, be empowered to extend the date of presenting its final report from November 30, 2005 to June 30, 2006: and

That the Committee retain until September 30, 2006, all powers necessary to publicize its findings.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY ON CHARITABLE GIVING

Hon. Jerahmiel S. Grafstein: Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on Thursday, November 18, 2004, and the Order of the Senate adopted on Tuesday, March 22, 2005, the Standing Senate Committee on Banking, Trade and Commerce, which was authorized to examine and report on issues dealing with charitable giving in Canada, be empowered to extend the date of presenting its final report from November 30, 2005, to December 31, 2006: and

That the committee retain until March 31, 2007, all powers necessary to publicize its findings.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

MOTION TO EXTEND FRIDAY SITTING ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of November 24, 2005, moved:

That, notwithstanding rule 6(2), when the Senate sits on Friday, November 25, 2005, it continue its proceedings beyond 4 p.m.;

That, notwithstanding any other rule of the Senate, when the Senate has completed consideration of every item on the Order Paper and Notice Paper of Friday, November 25, 2005, the sitting shall be suspended to the call of the Chair.

Motion agreed to.

MOTION TO AUTHORIZE SUNDAY SITTING ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government), pursuant to notice of November 24, 2005, moved:

That, when the Senate adjourns on Saturday, November 26, 2005, it do stand adjourned until Sunday, November 27, 2005, at 1:30 p.m.

Motion agreed to.

CRIMINAL CODE

BILL TO AMEND—THIRD READING

Hon. Lorna Milne moved third reading of Bill C-49, to amend the Criminal Code (trafficking in persons).

The Hon. the Speaker pro tempore: Is the house ready for the question?

Some Hon. Senators: Question!

[Translation]

Hon. Madeleine Plamondon: Honourable senators, I move that the bill be not now read the third time but that it be read a third time this day six months' hence. I so move.

The Hon. the Speaker pro tempore: Honourable senators, who is seconding Senator Plamondon's motion?

• (0930)

[English]

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Plamondon, seconded by the Honourable Senator Prud'homme, that this bill be read the third time six months' hence. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: All those in favour of the motion, please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All those opposed to the motion, please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: In my opinion, the nays have it.

Is the house ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Milne, seconded by the Honourable Senator Gill, that this bill be read the third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

CRIMINAL CODE CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—THIRD READING

Hon. Bill Rompkey (Deputy Leader of the Government) moved third reading of Bill C-53, to amend the Criminal Code (proceeds of crime) and the Controlled Drugs and Substances Act and to make consequential amendments to another Act.

Motion agreed to and bill read third time and passed.

REMOTE SENSING SPACE SYSTEMS BILL

THIRD READING

Hon. Robert W. Peterson moved third reading of Bill C-25, governing the operation of remote sensing space systems.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

[Translation]

Hon. Madeleine Plamondon: Honourable senators, I move that the bill be not now read the third time but that it be read a third time this day six months' hence. I so move.

The Hon. the Speaker pro tempore: Do you have a seconder, Senator Plamondon?

Senator Plamondon: Senator Prud'homme.

[English]

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Plamondon, seconded by the Honourable Senator Prud'homme, that this bill be read the third time six months' hence.

Is the house ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: In my opinion, the nays have it.

And two honourable senators having risen:

The Hon. the Speaker pro tempore: Call in the senators. Is there agreement on the bell?

Hon. Rose-Marie Losier-Cool: Could we agree to a five-minute bell?

The Hon. the Speaker pro tempore: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: The bell to call in the senators will sound for five minutes.

(0940)

Motion negatived on the following division:

YEAS THE HONOURABLE SENATORS

Plamondon

Prud'homme-2

NAYS THE HONOURABLE SENATORS

Angus	Harb
Austin	Hubley
Bacon	Joyal
Banks	Keon
Bryden .	Kinsella
Callbeck	Lapointe
Chaput	Losier-Coo
Christensen	Mahovlich
Cochrane	Merchant
Comeau	Milne
Cools	Moore
Cordy	Munson
Cowan	Peterson

Day
De Bané
Di Nino
Downe
Fairbairn
Fitzpatrick
Forrestall
Fox
Fraser
Furey
Gill
Grafstein
Gustafson

Phalen
Poy
Ringuette
Robichaud
Segal
Smith
Stratton
Tardif
Tkachuk
Trenholme Counsell
Watt
Zimmer—51

ABSTENTIONS THE HONOURABLE SENATORS

Nil

The Hon. the Speaker *pro tempore:* The amendment is defeated. Is the house ready for the question?

Some Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Peterson, seconded by the Honourable Senator Goldstein, that the bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Hon. Marcel Prud'homme: On division.

Motion agreed to, on division, and bill read third time and passed.

PUBLIC SERVANTS DISCLOSURE PROTECTION BILL.

THIRD READING

Hon. David P. Smith moved third reading of Bill C-11, to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings.

Some Hon. Senators: Ouestion!

[Translation]

Hon. Marcel Prud'homme: Honourable senators, at the time when I was appointed to the Senate, I was the only independent. I was really very lonely. I was totally isolated from the government of the day. I moved motions from time to time, but I had no one to second them.

Then, Senator Murray said that senators should not be isolated. He told me that he would second anything I moved, but pointed out at the same time that he would not vote in favour of my proposals because he wanted the discussion to follow its course. I am doing something similar today.

[English]

Yes, I will speak on the matter. Do not worry. Relax, everybody.

When I arrived in the Senate, I was totally isolated by the government of the day. I introduced some motions from time to time. I am sorry, is the debate on Bill C-11 or not? On third reading or not?

Senator Austin: Third reading.

Senator Prud'homme: Therefore we can speak. I repeat again: When I arrived, at times I put motions to the Senate and there was no seconder. A fine gentleman who is known to all of you, Senator Lowell Murray, said, "It is wrong to isolate a senator. I will second whatever Senator Prud'homme intends to propose." I want him to know, ahead of time, that I will not vote for his proposals. He wanted a free flow of discussion leading to an ultimate decision, and I think that is what I have done now.

The Senate just voted on Bill C-25, and I voted against it. I originally wanted to abstain. I went to the committee hearings, and members of the committee were opposed to that bill. If the vote had been called on Tuesday, it would have been defeated, but we saw all kinds of tactics and delays, and a postponement until the day after so that there would be a majority of supporters for the bill.

The Conservatives at that time introduced an extraordinarily good amendment, put forward by Senator Carney and Senator Downe. I was ready to vote for it at the Foreign Affairs Committee sitting on Bill C-25. However, through the use of tactics, the vote was delayed to the day after, and the bill passed. Fine. I have consistency. I still believe that the proposal by Senator Downe and by Senator Carney would have been better for Bill C-25, but it was not to be, and the bill has now been passed. At least I am on record as explaining what happened.

(0950)

If you would cool off a little bit, you would get everything you want today. I just said to the Leader of the Government, "Tell your people to cool off a little bit."

I am sure that the senator does not need Marcel Prud'homme's advice. She has hired people. She has books that I have never read. She is not practical in upgrading herself to the latest savoir-faire of all the rules, so she hires someone. I see the books on rules that are never read.

It is her right to do so. Why would honourable senators deny her that right?

The other night, I asked for consent to comment on a speech by Senator Gill. All I wanted to say is that 10 years from now, Jean Chrétien will be remembered not for what is happening now but for the fact that he kept us out of Iraq. I was not even allowed to praise the former Prime Minister because of the impatience of two senators who said "No." I do not name them because they are friends of mine.

As honourable senators know, Bill C-11 is not the best bill. Be practical, senators. We know that whomever discloses wrongdoing will affect their career. There is not enough protection for whistle-blowers. This bill is a start, a beginning. Therefore, I will most likely vote in favour of it.

Bill C-11 will demand a lot of supervision. If a whistle-blower were to come forward they would be told, "No problem, you will receive good treatment." However, the protection for whistle-blowers is not strong enough. Their careers would be on the table and they could be refused promotions.

I feel that the bill has not been strengthened enough. We will let the future decide where the mistakes are and then bring forward the necessary corrections. I would not like to be a civil servant who sees things that, according to this new law, should be reported higher up. I would not like to be in his or her skin, having to report for the best interests of Canada and for the best interests of public administration the abuse that takes place every day between senior bureaucrats and lobbyists. I see people attacking politicians, but they are attacking the wrong people. I am proud to have been a politician for the last 50 years.

We should look at the cozy dealings between senior civil servants and lobbyists. If some good citizen working for Canadians sees things that they feel are not in the best interests of the Canadian population and they report them, they know that they are putting their future in jeopardy.

Honourable senators, this is not the right kind of protection. I do not want lobbyists in my office. I do not want my name to appear in the press, "Having met with Senator Prud'homme," and then zap, \$5,000.

The only thing I received was to be appointed to the Standing Senate Committee on Banking Trade and Commerce. For 10 years I wanted to be on the Foreign Affairs Committee. I was deprived for all kinds of political pressure by various groups. I do not want to enter into a new speech that senators will hear next session.

One day I made a joke to Senator Carstairs. She said, "Stop saying Foreign Affairs, Foreign Affairs, Foreign Affairs." I thought to myself that they would never give me a seat on that committee. I said, "Okay, Foreign Affairs, Foreign Affairs; they will never give me that." They gave me Banking. Senators all laughed collectively when she said, "I am pleased to announce that Senator Prud'homme has just been appointed to the Standing Senate Committee on Banking, Trade and Commerce," because you all know it is not my savoir-faire.

I went there. When Leo Kolber arrived and the committee studied a bank merger, I forced a vote that never took place in the private banking club called the Banking Committee. The vote was 11-1 against the merger of the bank with all of the richest lobbyists.

I spoke to five great bankers at the Rideau Club, five bankers in one night. I had never seen that in my life before and have never seen it since. I said, "You are surrounding us today with lobbyists that you pay a fortune for." We were a little tipsy, nice wine, Rideau Club, bankers. I asked them, "How many employees do

you have altogether?" Not one of them could answer. I said, "Do you know you have 232,000 employees? Do you know that these employees could all be lobbyists because their jobs are in jeopardy?" They did not know what would happen to the jobs if the merger took place.

I forced a vote. It did not pass. The government, a few months later, delayed time and time again. There were two major arguments that I used. I was inspired by one of our friends, Senator Setlakwe.

I just want to say that before we vote on bills like that, we should reflect. Bill C-11 is not strong enough. Civil servants do not feel protected enough. We have all heard that. If it is to be a step in the right direction, I will vote for it. However, if the good senator asks for a vote, with all due respect, I will not isolate her. I will second her. I prefer that she does not make such a request, but she does not listen to me. She says, "You are not my boss."

I will tell her ahead of time that if I second that motion, it is just to give her the privilege of putting forth her views. Once she has stated her views, I will vote the way I feel I should.

Hon. Madeleine Plamondon: I move adjournment of the debate.

Senator Prud'homme: I second the motion.

The Hon. the Speaker pro tempore: It is moved by the Honourable Senator Plamondon, seconded by the Honourable Senator Prud'homme, that further debate be adjourned until the next sitting of the Senate.

• (1000)

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: All those in favour of the motion will please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All those opposed will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: In my opinion the "nays" have it.

And two honourable senators having risen:

Hon. Rose-Marie Losier-Cool: There will be a one-minute bell.

The Hon. the Speaker pro tempore: Is it agreed, honourable senators?

Hon. Senators: Agreed.

• (1005)

Motion negatived on the following division:

YEAS THE HONOURABLE SENATORS

Plamondon

Prud'homme-2

NAYS THE HONOURABLE SENATORS

Austin Bacon Banks Biron Bryden Chaput Christensen Cochrane Comeau Cools Cordy Cowan Dawson Day Di Nino Fairbairn Fitzpatrick Forrestall Fox Fraser Gill Goldstein Grafstein Gustafson

Harb Hubley Joyal Kinsella Lapointe Losier-Cool Mahovlich Merchant Milne Moore Peterson Phalen Poy Ringuette Robichaud Rompkey Segal Sibbeston Smith Stratton Tardif Tkachuk Trenholme Counsell Zimmer-48

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question!

[Translation]

Senator Plamondon: Honourable senators, regarding this bill, I would like to draw your attention to a letter I have received from —

The Hon. the Speaker pro tempore: Honourable senator, you have asked for the debate to be adjourned. You cannot speak at this stage.

[English]

The Hon. the Speaker pro tempore: Is the house ready for the question?

Some Hon. Senators: Question!

[Translation]

Senator Plamondon: Honourable senators, I wanted to speak on the motion.

The Hon. the Speaker pro tempore: You have already spoken on the motion, Senator Plamondon.

[English]

Hon. Anne C. Cools: May the honourable senator not speak on third reading?

The Hon. the Speaker pro tempore: The honourable senator proposed the adjournment of third reading. Are we ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Smith, seconded by the Honourable Senator Cordy, that the bill be now read the third time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

WAGE EARNER PROTECTION PROGRAM BILL

THIRD READING

Hon. Bill Rompkey (Deputy Leader of the Government) moved third reading of Bill C-55, to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments to other Acts.

The Hon. the Speaker pro tempore: Is the house ready for the question?

Hon. Marcel Prud'homme: Your Honour, would you kindly speak louder? I keep saying we need better microphones and lighting. We would like to know exactly what is said. None of us heard what bill you called.

The Hon. the Speaker pro tempore: We are on Bill C-55.

Hon. Anne C. Cools: I am getting quite lost. We are now on Bill C-55. I am back on the previous situation. I do not understand why Senator Plamondon was not allowed to speak at third reading. Your Honour said that she had moved the motion for adjournment, which was defeated, but that in no way disqualifies her from being able to speak at third reading of the bill itself.

• (1010)

I do not understand why that was allowed to happen. It is not in order. Perhaps it is a little late, but my understanding is that she moved a motion to adjourn the debate and that it was disposed of in the negative. We then returned to the main motion and Senator Plamondon should have been allowed to speak at third reading.

Senator Rompkey: She wanted to speak on the adjournment.

Senator Cools: It does not matter. It is a different question.

Senator Rompkey: That is what she wanted to speak on.

Senator Cools: It is my understanding that she wanted to speak on third reading.

Senator Prud'homme: She is right. You cannot run the Senate this way.

The Hon. the Speaker pro tempore: Is there further debate on this issue?

[Translation]

Hon. Madeleine Plamondon: Honourable senators, I want to read to you the third paragraph of a letter written by David Kilgour, who has studied the issue of whistleblowers. It will not take long.

[English]

Senator Rompkey: We are on Bill C-55, the Wage Earner Protection Program Bill.

Hon. Terry Stratton (Deputy Leader of the Opposition): We have dealt with that order. It has been sent back to the House. We cannot revert.

Senator Prud'homme: Unless we have permission.

Senator Stratton: Once it is gone, it is gone.

The Hon. the Speaker pro tempore: I will have to revert to Bill C-55.

Is the house ready for the question?

Some Hon. Senators: Question!

[Translation]

Senator Plamondon: Honourable senators, I want to share my opinion at third reading stage of Bill C-55, which I have spoken to once before. At this third reading stage, I must tell you I am disappointed that I did not have time to look at it more thoroughly.

No consumers groups were called as witnesses to the committee. There were no witnesses at all. This was done quickly. At second reading of the bill, I asked that consumer groups be invited and Senator Austin told me I would be able to speak at third reading. That is what I am doing.

I wanted to know what consumer groups involved in daily credit counselling would have had to say about this. I would have liked time to read all the reports of the Standing Senate Committee on Banking, Trade and Commerce, which were tabled before I arrived at the Senate and which I have not looked at.

This bill is important for consumers and it is a shame it is being pushed through. It is disrespectful to consumers to approve this bill, which was criticized at second reading but is still being rushed through the Senate.

It will be more difficult to amend this bill once it becomes law. I cannot understand how the government could table this bill without considering the findings of the Standing Senate Committee on Banking, Trade and Commerce.

[English]

Hon. Jerahmiel S. Grafstein: Honourable senators, I regret the last comments of the Honourable Senator Plamondon, whom I greatly respect. She has been an active member of our committee. However, regrettably, she was not at our extensive deliberations that went beyond the sittings of this house. I regret that she was not able to participate, but perhaps before she opines on this matter she would allow me an opportunity, as chairman of the committee that has presented a unanimous report, to explain, and perhaps she might come to a different conclusion.

Honourable senators, I first want to thank all members of the Banking Committee. In particular, I want to thank our august Deputy Chairman, Senator Angus. I want to thank every member of the committee, including our expert members. We have Senator Goldstein on our committee, who was at one time counsel to the committee and was very much involved in the Senate studies on the subject matter of Bill C-55. I thank all honourable senators who participated, read the materials carefully and held very strong convictions about the bill.

I also want to thank the clerk of our committee, Gérarld Lafrenière who, under arduous circumstances, fulfilled his duties with great professionalism. In addition, I want to thank our senior analyst, June Dewetering, who helped us, on a tight time frame, to come to what I hope is a very satisfactory conclusion.

I also want to commend the Leader of the Government in the Senate and the Leader of the Opposition in the Senate, who collaborated in the interests of the Senate to come up with a compromise that I believe dealt with not only the public will, as exemplified in the other place, but also the concerns in this house and our constitutional responsibilities.

I reiterate that I regret that Senator Plamondon was not there, because she has been a very active, astute and helpful member of our committee in our deliberations. As this bill came to us so suddenly from the other place, we were unable to consider a bill into which she had great input, that being the consumer study bill, although we intend to deal with it as soon as possible. However, it is our constitutional responsibility to deal first with government business referred to our committee.

I will explain what happened. The committee was confronted with a Solomonic choice or, as one of our astute members said, a Hobson's choice. Just this week, we received Bill C-55, a very large omnibus bill that deals with not only worker protection but also insolvency and bankruptcy, which is the underlying framework of our economy. We, therefore, were faced with a

terrible dilemma. There was a clear demonstration of public will in the other place. As honourable senators know, the other place is a House of confidence, while we are not a house of confidence. The House of Commons unanimously adopted a bill that they wanted to have passed quickly in light of a pending dissolution of Parliament, which bill would protect vulnerable workers, a principle with which I believe all members of this house agreed.

Our difficulty was that we were told — and the committee looked at this question very carefully — that in light of the pending dissolution there was no opportunity to hear witnesses or to amend the bill, if we so desired, because had we done so the bill could not have been dealt with in the other place and would have died on the Order Paper given the timetable that developed due to actions of all parties in the House of Commons.

What to do? We believed that we had to protect vulnerable workers under the wage earner protection provisions in the bill. However, as Senator Plamondon pointed out, we were told by government officials that the bill was flawed. We were further told that government officials had prepared amendments not only to the legislation itself but also to the regulations that were to be implemented in the future as they were not satisfied with the bill. That was the evidence before the committee. Therefore, what were we to do to fulfil our constitutional responsibilities?

• (1020)

Let me spend a minute or two, Senator Plamondon, because I think it is important that all senators, and new senators, be reminded of their constitutional responsibilities. I will try to be succinct.

Our constitutional responsibilities go back to the great Sir William Blackstone, and Blackstone enunciated, back in the 17th century, the principle of checks and balances. The human condition was imperfect, and the popular will sometimes thwarted and unfair, so we developed a system of governance based on checks and balances between the executive, the house of popular will and the secondary chamber. Each was to check and balance the other so the public will was ultimately, properly and appropriately exercised.

When it came to the Fathers of Confederation, they set up this particular institution to represent the regions of the country and those voices that could not be heard in the popular will, and hence we were considered under our constitutional responsibilities to be a chamber of second sober thought.

The Americans put it well too, because they have the same theory, a different practice but also checks and balances. What did the Americans say? They said that the second chamber, the upper chamber, was to be a chamber that when they received scalding tea in a cup they were to pour it, which represented the heated or overheated public will. They were to put the scalding tea in a saucer and allow it to cool so that it could be ingested without scalding the innards of the public interest.

That, in a nutshell, is our constitutional responsibility: to be a check and balance on the popular will. However, when the popular will is clear, it is not up to us to thwart that public will, and that is the dilemma we faced. Then what would we do?

I now refer honourable senators to the report of the committee, which is succinct. It will set out the rationale in clear terms as to what we were confronted with and what our compromise solution was, which I think will commend itself to this place. I will read from the report. Senator Plamondon was not there; otherwise she might have read the report. It was tabled yesterday. Let us refer to the report. It is in French and English, but I will read portions of it in English.

The committee wishes to indicate our disappointment with the process by which the Bill arrived in the Senate. We recognize the extraordinary circumstances that exist with the impending dissolution of Parliament, but we believe we had

- as Senator Plamondon pointed out -

an inadequate opportunity to review comprehensively such an important piece of framework legislation.

Notwithstanding the foregoing, the Committee has decided to report Bill C-55 without amendment and without having conducted the customary comprehensive study and review. We do so not because we approve of the legislation in its entirety, as drafted, but rather because of three key factors.

First, the Committee unanimously supports and approves of the long-overdue wage earner protection provisions of the Bill and does not wish to delay, or in any way deny — or appear to deny — access to the enhanced legislated protection for this vulnerable group of creditors.

Second, the witnesses heard by the Committee, including the Minister of Labour and Housing and the Parliamentary Secretary to the Minister of Industry, gave unqualified assurance to the Committee, to be confirmed in writing forthwith, that Bill C-55 would not be proclaimed

- would not, in effect come -

into force, prior to 30 June 2006 at the earliest.

I will pause for a moment to talk about the time frame. We believe there is pending dissolution. We believe that there will be an election. This is our belief. We cannot really know until next week. We believe that there will be an election in the month or so ahead. We believe there will be a period of time after that for the government of the day to regroup itself, and we believe that we will be back here some time early next year. We believe that will allow us adequate time to do what we think will fulfil our Constitutional responsibilities.

Third, the Committee expects that between now and the proclamation of Bill C-55, we will receive a timely Order of Reference that will enable us to undertake the thorough review of the *Bankruptcy and Insolvency Act* and the *Companies' Creditors Arrangement Act* that would have occurred with respect to Bill C-55 had it been referred to committee to us on a more timely basis.

In connection with the Committee's study in 2006, we look forward to receiving, from Industry Canada officials, the legislative and regulatory changes they undertook

- and I add "in committee" -

to provide to improve Bill C-55 and Canada's insolvency regime more generally. All stakeholders should have an opportunity to share with us their views on key aspects of the *Bankruptcy and Insolvency Act*, and the *Companies' Creditors Arrangement Act* as well as other insolvency legislation. Unfortunately,

- and this is right out of the report -

too few witnesses were heard and there was insufficient study at Committee in the House of Commons during its examination of Bill C-55 which may, in part, explain why obviously needed amendments were not introduced before the Bill was sent to the Senate.

The Committee has

— and this is a piece of history that Senator Plamondon should understand —

in-depth knowledge of the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act. In 2002 and 2003 we reviewed these Acts and, in November 2003, tabled our report Debtors and Creditors Sharing the Burden: A Review of the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act. In that report, we comprehensively examined and made recommendations respecting the full range of consumer and commercial insolvency issues as well as on administrative procedural matters.

Now, the report goes on, Senator Plamondon.

While the Committee wholeheartedly supports the principle of wage earner protection regime, even in that instance we have questions. In our view, workers should be compensated in the timeliest manner possible, and we are not certain that the Bill's provisions meet that test of timeliness. For example, we wonder why the administrator is not able to pay the workers immediately, rather than waiting for workers to be paid out of the Wage Earner Protection Program.

I will move from the report and explain what we tried to do.

In the last two days, your committee was seized of this matter, or about to be seized of it, and I, with our august deputy chairman and all members of the committee, with their leadership on both sides, sought to come up with a solution. One solution was to split the bill, and that was our intention. However, we then found the bill difficult to split in a timely manner without amending it, which would have made it die on the Order Paper because we needed provisions from one section of the bill to be implemented to finally and fully protect the workers. Therefore we struggled to come up with a timely solution, but it was not to be because of the exigencies of the matter.

I will conclude by saying — and I will not read this but you should — moreover, we listed a number of provisions unrelated to wage earners' protection that we believe fall far short, and we have listed them in the report. I will not belabour or take the time of the house to go over those provisions, but it appears it is in the heart of the bill.

Let me conclude with these comments:

The committee notes that we have some experience with delayed proclamation of legislation. A similar approach was adopted in December 1997,

— and Senator Murray will all recall this —

when the Minister of Finance delayed the coming into force of the governance and investment provisions of the Canada Pension Plan Investment Board Act until April 1998 in order that we could study them. The Minister also agreed to refer the draft regulations governing the Investment Board to us for review and comment. We believe that this approach was successful then, and will be successful when we have the opportunity to study and review, in a comprehensive manner, the subject matter of Canada's insolvency framework legislation in 2006.

The committee concludes with these comments, which I am sure will help satisfy, in part, the concerns of Senator Plamondon:

The Committee continues to believe that the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act constitute critical framework legislation that affect, in a very fundamental manner, the Canadian economy and all Canadians who participate in it.

Finally, the committee says this in our report:

The Committee understands that the appropriate government legislative initiatives will be taken to ensure the foregoing.

We then had an undertaking in the committee by the government to withhold the implementation of this bill, but the message would go out clearly to workers that they, in fact, will be protected. As well, in the normal course of circumstances, the question that was raised in the Senate by the Honourable Senator Tkachuk, which was if the bill will be proclaimed in June, why can we not kill the bill now without amendment? I believe the clear answer on the record was, had we done that, we would defer worker protection for still a longer period, because it takes a number of months to implement and put into place the infrastructure, the amendments and the regulations to give effect to worker protection.

The Hon. the Speaker pro tempore: I am sorry, but Senator Grafstein's time has expired, unless he wishes leave to continue.

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Five more minutes?

(1030)

Some Hon. Senators: Agreed.

Senator Grafstein: Again, I think Senator Plamondon would like to hear this explanation.

At the end of the period, we concluded that this was the only workable explanation. We required, of course, a key. It is not in the report, but as some honourable senators have mentioned, this was a pre-condition because the committee was not satisfied. In light of the circumstances of dissolution of the other place, we wanted assurance in writing.

If honourable senators had been present at the committee last night when we dealt with Bill C-55 and gave it a thorough review and commended it to this place, at that time I received a letter from the Minister of Industry Canada responsible for the bankruptcy proportions of this bill. I would like to read that letter to the house. All members, had they been present, would have received a copy of this letter, which I circulated at the time. That occurred late last evening while we were hard at work.

The letter is addressed to me and is dated November 24, 2005. It is under the letterhead of the Minister of Industry, David L. Emerson. Honourable senators, I am prepared to place this on the record of the house with your consent. Allow me to read it in full:

I am writing in response to observations made during your committee's meeting of November 23, 2005 with respect to Bill C-55, an Act to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments. As the Committee noted, the bill is a very important piece of legislation that will have significant impact on the economy, the protection of workers, and the life of many Canadians who face a situation of financial distress.

Bill C-55 contains a comprehensive and balanced reform to Canada's insolvency system. There is very strong and broad support for the policy objectives of the bill, which underscores the importance of securing its adoption by Parliament in a timely manner. However, given exceptional circumstances, the scrutiny of the detailed provisions of the bill has raised a number of implementation issues that deserve further consideration. In this regard, the Government commits not to proceed with the coming into force of Bill C-55 before June 30, 2006. As soon as possible in 2006, the Government, through the Leader of the Government in the Senate, will refer the matter to the committee for further study.

I would like to thank your committee for its diligence and cooperation.

Sincerely, David L. Emerson.

Honourable senators, we have received a written assurance by the government. This assurance, to my mind, gives me confidence that we will be able to fill our constitutional responsibilities as soon as we come back. We will be here, and Senator Plamondon will also be here. I commend to the Senate that we speedily pass this measure in the interest of the workers of Canada.

Some Hon. Senators: Hear, hear!

Hon. W. David Angus: Honourable senators, first let me say to my colleague, Senator Grafstein, thank you for his generous comments towards not only his deputy chair but also towards the other members of the team, the committee and the support staff.

Honourable senators, I would simply and heartily endorse most of what my colleague has said. I am not sure I agree textually with his references to Blackstone. In general, I think honourable senators will recall my remarks in this chamber the other day about our constitutional duty and the image of senators, generally, at times such as this with important legislation.

I want to reiterate, honourable senators, that in a 24-hour time frame starting three days ago, we were inundated. When it became clear in the media that Bill C-55 was on a fast-track process, we were literally inundated with emails, letters, phone calls and requests for meetings and briefs from the stakeholders of the section of the bill that relates to the review and reconfection of our laws of insolvency, bankruptcy and restructuring. Therefore, we were in a crise de conscience, as Senator Grafstein has stated.

I compliment the chairman for his integrity and openness towards finding a solution. Initially, as I had stated in this chamber, we had grave doubts and concerns on this side. I have to salute Senator Grafstein for his openness towards finding a solution.

Some Hon. Senators: Hear, hear!

Senator Angus: I want to say, in the twelve and a half years I have been in this place, this is one of the most fulfilling exercises that I have undertaken. I felt that all sides were working together in a difficult situation to do what was right.

Therefore, I feel comfortable with the undertakings given by Minister Emerson, Minister Fontana, Parliamentary Secretary Pickard and by the officials who all appeared before the committee and placed on the record their genuine concerns that the wage earner protection provisions be enshrined in a law that will ultimately come into force on the one hand; but also their recognition of the need to fix the errors, omissions and flaws in the other part of the bill that crept in as a result of perhaps the undue haste with which it was brought to this place.

Therefore, honourable senators, I think we all understand where we are. The letter is on the record.

I would simply request the Leader of the Government in the Senate, as his office is referred to in the letter, to confirm for our comfort that the spirit of this correspondence is indeed what the government has in mind.

If I might add to what Senator Grafstein has stated, the officials are already compiling a list of proposed amendments and areas in the legislation for which improvement is required. Part of our study and work is underway in that regard.

Senator Goldstein, who, as Senator Grafstein stated, is knowledgeable and has served as counsel to the committee in the past, has some 40 other proposals that would, I think, improve the bill. The proposals are ready to be worked on whenever we get back to this place in the New Year.

I ask for a statement on the record from the Leader of the Government in the Senate that he endorse this procedure, this process, and that there be an intention for government legislation, as opposed to private-member-sponsored legislation, to implement these amendments when the committee next has an opportunity to report back to this chamber.

Honourable senators, my final remark is, subject to Senator Austin's forthcoming comments, that we get this bill passed but not proclaimed.

Hon. Jack Austin (Leader of the Government): Honourable senators, I want to address the issue of Bill C-55 in terms of its standing here today and its ongoing standing as requested by the chair of the Standing Senate Committee on Banking, Trade and Commerce, and by Senator Angus, who has just concluded his remarks.

Honourable senators, as both my colleagues have stated, Bill C-55 has presented to this chamber a difficult circumstance. Obviously, there was a great deal of support for the policy directions in this bill. The bill also had not been properly considered in the other place and needs to be reviewed in detail.

Those circumstances were discussed with me by Senator Grafstein. The result is the letter from the Minister of Industry, David L. Emerson, to Senator Grafstein dated November 24, 2005, in which the Minister of Industry gives an undertaking on behalf of the Government of Canada that the bill will not proceed with coming into force before June 30, 2006. The reason for that provision, as discussed with the Minister of Industry, is to permit the Senate to do its proper work in the study of this legislation, not with respect to the principle of the legislation but with respect to the way in which its legislative proposals are to be delivered, the way in which workers are to be protected and the way in which the financial institutions of this country are given proper and balanced consideration in the amendment of the other legislation that this bill proposes to amend.

• (1040)

Therefore I am very pleased to add confirmation to that of the Minister of Industry in the letter of November 24, 2005, and say that if we are the government on the return of the election writ, the government on this side will propose that Bill C-55 be referred by order of reference to the Standing Senate Committee on Banking, Trade and Commerce to review Bill C-55 and to propose whatever amendments are appropriate in the view of the committee.

I would also like to add to what Senator Grafstein has said. The government has been concerned with some parts of the legislation contained in Bill C-55 and had the intention of proposing amendments in the other place and, when that turned out to be difficult, amendments in this place. However, we were not capable of dealing properly with any amendments, however proposed.

I believe that the committee, as Senator Grafstein said, has come up with a solemn conclusion. I share with Senator Angus questions about Blackstone's references, although I agree entirely with the thesis of the checks and balances that Senator Grafstein spoke about.

Senator Grafstein says, "Read Blackstone." Anyone here who is a lawyer had this 30-pound book dumped on his or her desk and was told, "Read it before you go to your first law class." Nobody did, of course, except perhaps Senator Grafstein.

In any event, because the matter is a serious one, I do want to say one more time that should the Liberal Party form the next government, the Leader of the Government in this place will refer Bill C-55 to the Banking Committee forthwith upon the first opportunity so to do. The government has made the commitment not to bring the bill into force before June 30, 2006.

With the consent of the Senate, I will table the original letter of the Minister of Industry, addressed to Senator Grafstein, dated November 24, 2005.

Some Hon. Senators: Hear, hear!

Senator Austin: The honourable senator proposed it.

Senator Grafstein: With leave of the Senate, I propose, in accordance with the rules, that this document be appended to the *Debates of the Senate* of this date.

(For letter, see today's Debates of the Senate, Appendix, p. 2241.)

Hon. David Tkachuk: I just want to break up this collegiality here, as I tried to do in the committee. This is a bad piece of work. We have been acting as responsibly as we could under the circumstances. I want to make it clear to everybody here that even though we knew that the bill would not be implemented for quite some time, as it takes quite a number of months for a bill like this to be implemented, the letter was asked for by our side because we wanted to send a clear signal to the markets that it would not be implemented until at least June 30 of next year.

I want there to be no illusion amongst honourable senators. Even if the letter was not asked for, workers would not have been protected in January, February, March, April, May or June, and probably not till 2007, or perhaps, at the earliest, the fall of 2006. I just want everybody to know that.

The Minister explained that this procedure would speed up the process, and that is why it is important. Of course, all the parties in the house agreed to that, but, honourable senators, it was not one of my proudest moments, even though this was a difficult solution to a difficult problem. All honourable senators worked towards that, and that is why the matter was resolved so quickly.

I want to thank the chair and the deputy chair of the committee because their relationship is pretty cozy, more cozy than I would probably like. They get along pretty well, so what can I say?

The Hon. the Speaker pro tempore: Senator Kinsella?

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I just want to place on the record that Prime Minister Harper has indicated to my colleagues that he will welcome a knock on his door — that is a quote from Senator Angus — in the same spirit in which Senator Austin has made an undertaking that it would be done in his caucus should the unimaginable happen. I place on the record that we have that commitment verbally from Mr. Harper.

Some Hon. Senators: Hear, hear!

[Translation]

The Hon. the Speaker pro tempore: Senator Plamondon, since you have already spoken on this bill at third reading, you must have unanimous consent to speak again.

[English]

In order for Senator Plamondon to speak, we must have unanimous consent.

Are there any questions? Are you asking a question of Senator Austin?

Senator Plamondon: May I ask a question of Senator Grafstein?

The Hon. the Speaker pro tempore: Will Senator Grafstein accept a question?

Some Hon. Senators: Agreed.

Some Hon. Senators: She spoke already.

The Hon. the Speaker pro tempore: The honourable senator would have to ask a question of Senator Tkachuk, who was the last speaker.

Senator Austin: Senator Kinsella was the last speaker.

The Hon. the Speaker pro tempore: I am sorry, Senator Kinsella.

Senator Plamondon: I will pose my question to whoever wishes to answer it.

The Hon. the Speaker pro tempore: Does Senator Kinsella wish to respond to questions?

Senator Kinsella: No.

The Hon. the Speaker pro tempore: Sorry, leave is not granted, senator.

Is the house ready for the question?

Senator Prud'homme: Instead of dumping — my neighbour, who is the most eloquent person, made me correct a word that I was about to use. Instead of abusing Senator Plamondon, or dumping on her, we should thank her. We were about to stampede bills within a moment. Mr. Fox may disagree, but he is my long-time friend. I gave him his first Liberal membership card

as a Rhodes Scholar at the University of Montreal, so I can never fight with him. He is brilliant. I would never want to have a debate with him because he knows that I was also a champion of debating, and most likely I would win.

I am happy that a debate is taking place. I thought that is what the Senate was all about. We cannot all go to committees. Now, because of the insistence of the honourable senator in delaying, we have had immensely good information from Senator Grafstein. He must be happy. He can print this speech because it is a good one. He gives us more explanation. I watched all of you, senators, from where I sit, and you paid attention to what he was saying. For most of you, it was the first time you had heard about that bill on which you are about to vote.

(1050)

Thanks to the Honourable Senator Plamondon's insistence on not going too fast, we have learned more about that bad bill. My friend — and I call him my friend, and I usually do not abuse that word — and I disagree quite passionately on one issue only. He knows that I started my campaign for Ross Thatcher in 1964 in Saskatchewan, and campaigned for the first woman ever elected, Sally Merchant, who is the mother-in-law of Senator Pana Merchant. I campaigned in 1967 all over Saskatchewan. I know Saskatchewan better than some places in Quebec.

Senator Tkachuk said that this is a bad bill. Another friend said, "Well, it was sent by the House of Commons as a bad bill." I thought that the duty of the Senate was exactly that: to correct bad bills that come from the House of Commons.

Now we are being asked to vote quickly on a bad bill from the House of Commons with the assurance, or in some cases the arrogance, of people who say, "Do not worry. When we come back..." — as if they have been given a sign from God that they will be sitting in the same place — "...we will continue with this bill."

However, the universe may not unfold as we think. The time is now to show to the other chamber what is becoming more and more of a bad habit. It is also done in the National Assembly in Quebec. I am on record as having booed from the gallery in the National Assembly — where I am much more popular than here, on both sides of the aisle — what they were trying to do over there by saying, "If you do not pass this before midnight, you will come back between Christmas and New Year. If you do not do this, you will sit until midnight. If you do not do this, you will sit Saturday."

I said, "So be it." If you do not do it, you will sit on Sunday. Now, the Lord's Day has taken a hike. I remember once we were supposed to sit on Holy Friday on a debate in the House of Commons by two members from the NDP, a member from Skeena, whose name escapes me, and Mr. Peters from Temiskaming. If we were to sit on the joyful day called Hanukkah, I would imagine there would be strong representation here. Suddenly, we say, "Who cares about Sunday anymore anyway? We will sit Sunday." For what reason, I do not know.

It is a bad thing to say that the Senate seems to be espousing working with a gun to its head or a knife to its throat on a multiplicity of bills that we were about to pass this morning, until we got some explanation of this bill because of the insistence, again, of Senator Plamondon. We heard quite a great statement by Mr. Austin, who earlier — and I am not attacking him — as I can read faces, seemed to be not very happy with the development of the events this morning.

Look at what is going on. Every member would now like to ask questions. What is this all about, really?

Senator Grafstein quoted a letter that members who were at the committee hearing received. We all know that Senator Plamondon was not at the committee meeting; therefore, she did not receive that letter. I just checked. She is a different member already; she did not receive the letter because she was not there. However, she was not there because she had already indicated that she preferred to be here while you were there.

Correction: It was yesterday evening, but she did not receive the letter. Her having said that she did not receive the letter surprised me, but it seems to be a very important letter. I am sure Senator Grafstein will give her a copy. I am very pleased.

All of that is to say, in a nutshell, that it is very difficult for me as a senator to vote for legislation when the expert who sat on the committee tells me that the bill is a bad bill. It came here as a bad bill. We did not correct the bill because of expediency, because of so-called events that will take place; but it is okay; we will solve that later on.

Senator Plamondon's raison d'etre at the Senate was to be the champion of the consumers' association. Now, instead of explaining a policy, she will have to explain why there were no witnesses, why there was no time for various consumer associations to be heard.

I can tell you one thing: You would not have done that to big bankers, unless a private phone call were to take place, saying that we are touching your interests but we do not have time to bring you in as witnesses. We would not do that to very highly influential Canadians if we were to touch their daily lives. I do not think we would. We would not do that to people who contribute vast amounts of money to the electoral funds. I do not think you would do it if they were to get on the line to the Prime Minister's office and speak directly to him, saying, "You are affecting us. My lobbyists on the Hill tell me that it is terrible because you are intending to pass that bill. We do not agree with that, but you are going ahead anyway, and we have not had a chance to be heard." I think that you are all very practical politicians. You all know the secrets of life, especially those who have been active as fundraisers. I see one, two or three here, four, five, six, seven and eight.

It is too bad that there are 39 absent senators. I know that we cannot refer to senators' absences by name, but we can by number. There are at least 39 senators who will not know what is happening today, what happened this morning and why there is this rush. They would not have had a chance to listen to the words of wisdom of Senator Grafstein, the Chairman of the Banking Committee. They would not have been in a position to listen to

the commitment by Senator Austin. I hope some day before I leave — relax; you do not have many more years to see me — to use my time, if I can, to solve another problem, as you know. All I would have to do is to try to make Canadians understand that they could be proud of having a Senate to protect their interests; that Indians in Canada could be proud to know that they have champions in Canada; that the minorities in Canada could be proud to know that someone is standing up for their rights. The Senate has a role to play.

I do not know if you are signifying me. No?

Okay. We are here in the Senate with a raison d'etre. I defend the Senate. I believe in the Senate. Even in Quebec now, the Bloc and the Péquiste are talking about a new regional house. I said to them - because I have good contacts with them, and I am not one of them yet — "If I understand you well, you want to reinstitute a legislative council." They call that a house of regions. It was just abolished, as you know. Quebec was the last place where they abolished the legislative council, the upper house, 24 members. I knew them all. They waited until most of them died and then they bought off the last three with a pension, because they were not allowed a pension. Now, suddenly, they have discovered that there is something missing somewhere. It is called a house of regions. We have the Senate; but, senators, for God's sake, for Pete's sake, for France's sake, for Madame's sake, for all of our sake, do we really believe in what we are doing here? Some senators told me last night, "I am so fed up with this place." I said, "Senator, why do you not resign? If you are fed up with this place, there are hundreds of Canadians waiting to serve Canada. Canada will go through crises. We need active members who believe they can do something. If you are fed up, just resign." I will not say who it was. However, those who know me know I can back up what I say with a real name. If you are fed up, resign — that is, if you do not like to sit a few more hours for the salary we receive. It is the last ultimate private club in North America. It is the last ultimate private club of Canada. I think someone said "right."

• (1100)

We have privileges, but we have a role to play — and that is what Senator Tkachuk said — namely, to correct that bill. It is a bad bill. Or do it with Bill C-25, on foreign affairs. If there would have been a vote, as I said to people, "Why not vote now?" The bill would have been defeated.

We should not apologize for delaying things a bit more. We know there is a motion to sit this afternoon, until we get exhausted; and tomorrow, and Sunday, and Monday. I am of the opinion that we will get out of here much sooner than that. Having said that, I will not leave Madame alone. On the next bill, I will not take any more action. On Bill C-54, I have reason to act differently.

Senator Rompkey: Question!

The Hon, the Speaker pro tempore: Is the house ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Losier-Cool, that this bill be read a third time now. Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[Translation]

Senator Plamondon: Honourable senators, I move that the bill be not now read the third time but that it be read six months hence.

[English]

Senator Rompkey: We just passed it.

Senator Prud'homme: On a point of order, I think there has been some bulldozing going on. The microphones — I do not know if there is a problem; it was not open — or not working. She was already up.

Senator Stratton: You have an ear piece. You can clearly hear with an ear piece.

The Hon. the Speaker pro tempore: Senator Plamondon had already spoken on third reading of the bill.

FIRST NATIONS OIL AND GAS AND MONEYS MANAGEMENT BILL

THIRD READING

Hon. Rod A. A. Zimmer moved third reading of Bill C-54, to provide first nations with the option of managing and regulating oil and gas exploration and exploitation and of receiving moneys otherwise held for them by Canada.

The Hon. The Speaker pro tempore: Is there debate on the issue?

Some Hon. Senators: Question!

The Hon. the Speaker pro tempore: Is the house ready for the question?

Some Hon. Senators: Question!

Motion agreed to and bill read the third time and passed.

ENERGY COSTS ASSISTANCE MEASURES BILL

THIRD READING

Hon. John G. Bryden moved third reading of Bill C-66, to authorize payments to provide assistance in relation to energy costs, housing energy consumption and public transit infrastructure, and to make consequential amendments to certain Acts.

The Hon. the Speaker pro tempore: It is moved by the Honourable Senator Bryden, seconded by the Honourable Senator Poy, that the bill be read the third time now.

Is there debate on the issue?

Some Hon. Senators: Question!

The Hon. the Speaker pro tempore: Senator Plamondon.

[Translation]

Hon. Madeleine Plamondon: Honourable senators, I move that the bill be not now read but that it be read six months hence.

[English]

The Hon. the Speaker pro tempore: Do you have a seconder, Senator Plamondon?

The motion is seconded by the Honourable Senator Prud'homme that this bill be read the third time six months hence.

Hon. Marcel Prud'homme: Again, read the number of the bill so that we can follow, please. It is what?

The Hon. the Speaker pro tempore: The clerk read the bill, senator.

Senator Austin: Bill C-66.

The Hon. the Speaker pro tempore: We are dealing with Bill C-66 and Senator Bryden now has the floor.

It is moved by the Honourable Senator Plamondon, as I said, seconded by the Honourable Senator Prud'homme —

Senator Prud'homme: No, no.

The Hon. the Speaker pro tempore: No? Does Senator Plamondon have a seconder? There is no seconder.

Is the house ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: It is moved by the Honourable Senator Bryden, seconded by the Honourable Senator Poy, that this bill be read the third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Prud'homme: You could at least ask kindly, either the proposer or the mover — to show them that we do not rush stuff around here — to give us a very brief explanation of what took place in the committee. I think it is only fair that they say a word or two.

The Hon. the Speaker pro tempore: Is the house ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: Is leave granted, honourable senators? Are you ready for the question? It is moved by the Honourable Senator Bryden, seconded by the Honourable Senator Poy, that the bill be read a third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Carried.

Senator Prud'homme: Your honour, I think you said it very fast. I think you should look around. You sit down all the time. I am asking if it we are at third reading, but you go so fast; you do not look. You look at your paper and you sit down. You should look to see if there are senators standing, and your Clerk should advise accordingly.

Some Hon. Senators: Order!

The Hon. the Speaker pro tempore: If I may, Senator Prud'homme, I asked twice if the house was ready for the question.

Senator Prud'homme: And I got up twice.

The Hon. the Speaker pro tempore: No, I am sorry. I have asked twice.

Motion agreed to and bill read third time and passed.

BUSINESS OF THE SENATE

MOTION TO PASS BILL C-57 AND BILL C-71 ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I move:

That, pursuant to rule 38, in relation to:

Bill C-57, An Act to amend certain acts in relation to financial institutions; and

Bill C-71, An Act respecting the regulation of commercial and industrial undertakings on reserve lands;

no later than 2:45 p.m. Friday, November 25, 2005, the Speaker shall interrupt any proceedings before the Senate and all questions necessary to dispose of all remaining stages of the above-mentioned bills shall be put forthwith and successively without further debate, amendment, or adjournment and that any votes on any of those questions be not further deferred; and

That if a standing vote is requested, the bells to call in the Senators be sounded for fifteen minutes.

The Hon. the Speaker pro tempore: This motion is in accordance with rule 38. I would like to read it again so that everyone is aware of what we are doing.

• (1110)

Rule 38 states:

At any time while the Senate is sitting, the Leader of the Government in the Senate or the Deputy Leader of the Government in the Senate may state from his or her place in the Senate, that there is an agreement among the representatives of the parties in the Senate to allot a specified number of days or hours to the proceedings at one or more stages of any item of government business. At the same time, without notice, the said Leader or Deputy Leader may propose a motion setting forth the terms of such agreed allocation and every such motion shall be decided forthwith without debate or amendment.

[Translation]

Hon. Marcel Prud'homme: Could her Honour read rule 38 in French, please?

The Hon. the Speaker *pro tempore*: This motion is based on rule 38 of the *Rules of the Senate*:

At any time while the Senate is sitting, the Leader of the Government in the Senate or the Deputy Leader of the Government in the Senate may state from his or her place in the Senate, that there is an agreement among the representatives of the parties in the Senate to allot a specified number of days or hours to the proceedings at one or more stages of any item of government business. At the same time, without notice, the said Leader or Deputy Leader may propose a motion setting forth the terms of such agreed allocation and every such motion shall be decided forthwith without debate or amendment.

[English]

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, I confirm that there is agreement on this side to proceed with this motion under rule 38 of the Rules of the Senate.

Some Hon. Senators: Question!

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Rompkey, seconded by the Honourable Senator Stratton:

That, pursuant to rule 38, in relation to:

Bill C-57, An Act to amend certain Acts in relation to financial institutions

Bill C-71, An Act respecting the regulation of commercial and industrial undertakings on reserve lands

no later than 2:45 p.m. Friday, November 25, 2005, the Speaker shall interrupt any proceedings before the Senate and all questions necessary to dispose of all remaining stages of the above-mentioned bills shall be put forthwith and successively without further debate, amendment or adjournment and that any votes on any of those questions be not further deferred; and

That, if a standing vote is requested, the bells to call in the Senators be sounded for fifteen minutes.

[Translation]

Senator Prud'homme: In French, please.

The Hon. the Speaker pro tempore: It is moved by the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Stratton:

That, pursuant to rule 38, in relation to:

Bill C-57, An Act to amend certain Acts in relation to financial institutions,

Bill C-71, An Act respecting the regulation of commercial and industrial undertakings on reserve lands,

no later than 2:45 p.m. Friday, November 25, 2005, the Speaker shall interrupt any proceedings before the Senate and all questions necessary to dispose of all remaining stages of the above-mentioned bills shall be put forthwith and successively without further debate, amendment or adjournment and that any votes on any of those questions be not further deferred; and

That, if a standing vote is requested, the bells to call in the Senators be sounded for fifteen minutes.

[English]

All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All those opposed to the motion will please say "nay."

Senator Prud'homme: Nay.

The Hon. the Speaker pro tempore: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker pro tempore: Call in the senators.

Is there agreement on the bell?

Hon. Lowell Murray: I appreciate the problem that honourable senators are experiencing with repeated denials of unanimous consent. However, I have protested on other occasions about 15-minute bells to summon honourable senators who might not be in the chamber but rather in their offices. Certainly, a one-minute bell, even if 104 senators were present in the chamber, would not be sufficient and would be an abuse by our majority. Therefore, I would appeal to the whips to come to an agreement for something more reasonable than a one-minute bell.

Hon. David Tkachuk: I would agree to a 15-minute bell.

Hon. Rose-Marie Losier-Cool: Agreed.

The Hon. the Speaker pro tempore: Is it agreed that there will be a 15-minute bell?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: The bell to call in the senators will sound for 15 minutes.

(1130)

Motion carried on the following division:

YEAS THE HONOURABLE SENATORS

Harb Angus Hubley Austin Bacon Joyal Baker Keon Banks Kinsella Lapointe Biron Losier-Cool Bryden Buchanan Mahovlich Merchant Callbeck Chaput Milne Moore Christensen Munson Cochrane Comeau Peterson Phalen Corbin Cordy Poy Cowan Ringuette Robichaud Dawson Day Di Nino Rompkey Segal Fairbairn Sibbeston Fitzpatrick Smith Forrestall Stollery Stratton Fox Tardif Fraser Furev Tkachuk Trenholme Counsell Goldstein

NAYS THE HONOURABLE SENATORS

Zimmer-55

Plamondon-1

Grafstein

Gustafson

ABSTENTIONS THE HONOURABLE SENATORS

Cools Murray Gill Watt—4

Senator Prud'homme: On a point of order, I knew there would be howling and shouting. I was on the telephone, and I entered too late. Had I voted, I would have abstained, as did the last four honourable senators, for reasons one or two of them may explain in third reading debate.

FIRST NATIONS COMMERCIAL AND INDUSTRIAL DEVELOPMENT BILL

SECOND READING—DEBATE SUSPENDED

Hon. Tommy Banks moved second reading of Bill C-71, respecting the regulation of commercial and industrial undertakings on reserve lands.

He said: Honourable senators, I am not only pleased but proud to rise today to ask for your support of Bill C-71, the First Nations Commercial and Industrial Development Act. I urge all senators to support the passage of this bill so that First Nations can begin to enjoy the benefits that will accrue from it in terms of economic development, social development and quality of life.

I point out, honourable senators, that this bill and its objectives have grown into a commitment from the Government of Canada in response to an impetus that has come directly from the First Nations. Its object is to close the socio-economic gap between First Nations and other Canadians.

(1140)

The gap in opportunities: We pride ourselves on equality of access to opportunity. This bill will move toward equal access of opportunity for First Nations.

It is part of a transformative agenda that involves working in partnerships with the First Nations to help them strengthen their economic prosperity and exercise greater control over their future prosperity.

To this end, the government signed a political accord with the Assembly of First Nations in 2005 that underlined a shared commitment to help First Nations exercise greater control over their social and economic aspirations.

As with previous legislation such as the First Nations Land Management Act and the proposed First Nations Oil and Gas and Moneys Management Act, Bill C-71 has the three following characteristics: The bill has been developed in partnership with First Nations, as a result of requests from First Nations. At every stage from the beginning concept of the bill, the design of the bill, and the examination of the downstream implications of the bill in every respect, there have been processes in which the First Nations have not been merely consulted, they have been at the table and part of the design of what we have before us now.

The physical application of this bill is completely optional for First Nations. This bill imposes nothing. It requires nothing. It demands nothing of any First Nation that does not wish to use it.

It requires complete community ratification from every bona fide voting member of any First Nation before that nation undertakes to use the opportunities that are provided in this bill, before any of its provisions can come into effect on reserve lands.

First Nations themselves advocated this initiative. They helped develop it. They helped write it. They have become its ambassadors to other First Nations. The five partnering nations who have been involved in the design and concept of this bill are the Squamish Nation of British Columbia, the Carry the Kettle

First Nation of Saskatchewan, the Fort William First Nation of Ontario, and thee Tsuu T'ina Nation and Fort McKay First Nation in Alberta. These First Nations have all passed band council resolutions in support of this proposed legislation.

This is a First Nations-led initiative. The Government of Canada has received letters of support from other First Nations and in addition to that, other First Nations organizations have received briefings, technical briefings and support documentation on this bill including the Canadian Council for Aboriginal Business, the First Nations Summit, the First Nation Economic Summit, the Indian Resource Council, the Union of Ontario Indians and the Federation of Saskatchewan Indian Nations. Many industry groups have indicated their support for this legislation as well.

These First Nations have recognized the enormous opportunities that exist on their reserve lands to improve their economic prosperity and the quality of their life through the development of large-scale and complex commercial undertakings.

For these First Nations and for all future First Nations who wish to participate in the regulatory measures that will become possible under this bill, it will represent a huge step forward in their capacity to realize their potential and to have access to that equality of opportunity for all Canadians of which we are most proud.

For First Nations to take advantage of these complex developmental undertakings, legislative and regulatory renewal must take place because there is an absence of such regulatory regimes on reserve land. Regulatory regimes are a vacuum in that respect.

The government has made this renewal a priority. It means access to equality of opportunity and to their social structures for all Canadians.

In the Auditor General's 2003 report, one impetus for this bill, the Auditor General, commenting on economic development in First Nations communities, found that regulatory barriers were one of the main impediments to First Nations economic development.

This bill fixes that problem and puts into place things that can be used by First Nations if they wish to do so to take advantage of their natural resources and developmental possibilities.

In testimony before the Standing Senate Committee on Aboriginal Peoples in Vancouver, Harold Calla, senior counsellor for the Squamish Nation, spoke about the need to address the institutional and legislative barriers to economic development of First Nations reserves. He also raised another issue that is central to this debate.

I am referring to his testimony. He indicated that First Nations and the Government of Canada must anticipate rather than react to the opportunities that First Nations are beginning to see,

recognize and realize. He said and now I quote him: "It is too late when impediments to economic development are starting to be discovered by First Nations communities because, for the first time, they may have an opportunity knocking on their door."

This bill addresses precisely what Mr. Calla discussed. Bill C-71 anticipates that First Nations will have those opportunities and will continue in the coming years to bring forward opportunities for large-scale complex economic commercial and industrial development prospects on reserve lands, much like the ones that are anticipated directly as a result of the impetus in this bill.

Honourable senators, I urge you, with alacrity and careful consideration, to vote for this bill today because the sooner we do it, the sooner those opportunities will be available.

Subject to First Nations agreement, the agreement of the provinces and the agreement of the Government of Canada under this bill, the direct opportunities that will be the first users of the regulatory powers, are waiting to push the button to start these developments going to the direct and immediate benefit of First Nations. I do not need to tell you what the real cost is, not in terms of delayed advantages to First Nations, but in terms of delayed plans for projects which are imminent.

Honourable senators, I urge your support now for this bill.

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, I wonder if the honourable senator would take a couple of questions.

Senator Banks: Absolutely.

Senator Kinsella: Could the honourable senator give us an example of the power that is alluded to in subclause 3(1) of the bill, page 2, which says, "The Governor in Council may make regulations governing commercial or industrial undertakings that are located on reserve lands described in the regulations."

Those regulations are yet to be formulated, I assume. However, the regulations are in such areas as to "confer on any person or body the power exercisable in circumstances and subject to conditions similar to those applicable to the exercise of that power outside reserve lands under the laws of the province."

Could you give us a couple of examples of those powers in paragraph 3(1)(c)?

Senator Banks: I thank the honourable senator for his question. I hate it when people say I am glad you asked that question but I am glad you asked that question, Senator Kinsella.

I will give you an Alberta example because that is where I am from and I am more than grazingly familiar with the kind of question to which you refer.

First, I want to ensure that we understand that it makes sense that in land that is contiguous and almost in every case contained and surrounded by provincial land — most often provincial Crown land — the federal regulations that will come into place to govern development on reserve land should be approximate to the regulations that apply to the provincial Crown land that surrounds it.

• (1150)

To have a different set of regulations that are operated and adjudicated by a different means would be inefficient, duplicative and impractical in the extreme. In the case of the Fort McKay First Nation, who are the first people to take advantage of this, we are talking about an oil sands deposit contiguous to the land directly next to it. To have a different set of regulations would be silly.

The government has chosen to make federal regulations which very closely approximate or may be exact mirror images of the provincial regulations that would apply in the immediate surrounding contiguous land. That would apply to whatever provincial regulations might apply whether it be in Nova Scotia, Quebec, British Columbia or any other province or territory.

In Alberta's case, the powers having to do with the development that the Fort McKay First Nation will undertake are governed by the Alberta Energy and Utilities Board and the Alberta Energy Resources Conservation Board. These groups govern extraction processes, ecological considerations and the like. The powers of these boards are quasi-judicial and practically legislative, which they must be for reasons we all understand. It would be the policy and practice, subject to the agreement of the First Nations, the provinces and the Government of Canada, that the federal regulations put into place on those reserve lands would be, for all intents and purposes, the same as the regulations that apply in the lands that abut the reserve lands. They would be different in every province.

This is not a derogation of authority; these are federal regulations. They will be agreed to by all the parties. However, it is practical that they will be administered and adjudicated by the bodies in the respective provinces who already do that, who already have a compendium of knowledge, who already have the expertise and the regulatory and adjudicative processes in place. They will exercise federal authority on those reserve lands in the same way as those regulations would apply on the lands that surround their reserves.

[Translation]

Hon. Aurélien Gill: Honourable senators, I would like to begin by congratulating the senators, the minister and the communities that have studied this bill. I have been interested in this issue for some years, and we have not yet found a way to provide economic development that would be of real help to the communities.

I am speaking on behalf of a number of communities in Quebec. They are subject to the Indian Act — federal legislation — which we do not like and have long wanted to change. What has prevented us from doing so, however, to some extent is that we

did not want to move out of federal jurisdiction — although the administration of Indian Affairs has not always been a great success — and into provincial. There has been an almost ongoing tendency for Indian and Northern Affairs to want to put us into provincial hands. Managing Indians is sometimes annoying. It is not always easy. That is what has always stopped us from obtaining something that might advance our cause and decrease the gap between Aboriginal communities and our non-Aboriginal neighbours.

Can you assure me that this is not a transfer of responsibilities to another level of government, but rather a responsibility that will remain under federal jurisdiction? If ever there is a transfer of responsibilities, will it be to the people in the communities concerned, and not the provinces? If you can guarantee that, I will have no problem supporting this bill.

If I understand correctly, the bill is going to apply to the communities that request it. It is my understanding that we would have to ask in order to have the bill apply to us. Is that the case?

[English]

Senator Banks: To answer the second question first, this legislation does not demand anything of anyone. This is not even framework legislation. This is enabling legislation which permits a First Nation to, and only if a First Nation wishes to, undertake certain kinds of complex and large-scale developments. They can enter into negotiations to arrive at, let us call it, a deal for that development; it may not be a development of a natural resource but an entirely different kind of development. The impetus to do that must come from the First Nation. If it does not want to do that, nothing would proceed — nothing would exist.

To answer the honourable senator's first question, there is not a devolution of federal responsibility to anyone. The federal government retains entirely its jurisdiction for providing regulation over industrial development on reserve lands. It does say that, subject to information coming from a First Nation for development, the federal regulations which will apply on that reserve, subject to the approval of the First Nation, will be the same as the ones that apply to the provincial lands that surround it, provided the First Nation agrees.

When that deal is made, it must be subject to, first, informed consent by every member of the First Nation in a referendum. Pursuant to that referendum, it then must be subject to a band council resolution. Nothing can proceed at any stage along the way without having first received the entire approval of the First Nation. This is not a devolution of federal responsibility. It is a statement of how the federal responsibility will be discharged.

Hon. Nick G. Sibbeston: Honourable senators, the Standing Senate Committee on Aboriginal Peoples is studying the issue of the involvement of Aboriginal peoples in industrial projects and businesses. It is a fascinating and inspiring study. We have heard from academics, various government departments and of course Aboriginal people here in Ottawa and more recently on a tour to British Columbia and Alberta.

We are finding that despite many difficulties and impediments, Aboriginal people are getting into business and are involved in our Canadian economy. People talk about the impediments or difficulties, but one of the things we are finding is a need for certainty. First Nations need certainty in terms of their powers. Businesses and industrial projects that want to go on reserves also want certainty. They want to be sure that the applicable rules will not change every time there is a new council.

This bill is part of the puzzle, part of what our government can do to help First Nations and Aboriginal people in our country create the regulations that will apply if First Nations, indeed, desire them on their reserves.

• (1200)

Honourable senators, Bill C-71 will give the federal government the ability to create regulations that apply to First Nations. Clause 5 states:

Regulations may not be made under section 3 in respect of undertakings on reserve lands of a first nation unless

(a) the Minister has received a resolution of the council of the first nation.

Therefore, this bill does not automatically apply to all First Nations and reserves in the country. First Nations must pass band council resolutions asking the federal government to have these regulations apply to their reserves, which is very significant.

In the last few days, I have received correspondence from First Nations expressing concerns and says that they have not been consulted. This bill has not been widely circulated and consulted upon throughout the country. I suspect that the federal government, through the Department of Indian Affairs, has been working with those First Nations communities that are likely to be impacted by industrial projects which they want to go forward on their land. I think that explains the concern of the few First Nations about this bill.

In the last few days, I have had the opportunity to meet with First Nations who have urged me to support this bill, and I am glad to do so. Implementation of industrial projects requires rules and regulations. People in the communities will want to be involved. They want to ensure that the projects will not harm them or the environment in any way, and the regulations will provide for that. They will provide comfort to First Nations that the projects will be conducted safely and not harm them. On the other hand, business requires certainty, and I think this bill will provide that. I am very pleased to support Bill C-71.

Hon. Hugh Segal: Would Senator Sibbeston entertain a question?

Senator Sibbeston: Yes.

Senator Segal: My question is with regard to the fiduciary obligations of the Crown to our First Nations. Let us assume that a band council has voted to have the provisions of this bill apply, which facilitates an Aboriginal community moving ahead in partnership with a resource company or other corporations for the purpose of economic development. If there is a difficulty, a

dispute or an environmental exposure, does the fiduciary role of the federal Crown still apply, or has the nature of the vote that has transpired and the implications of this legislation move that fiduciary obligation elsewhere? Does it expose the Aboriginal community to undue risk, particularly in the context of environmental exposure?

Senator Sibbeston: I recognize that the federal government has a fiduciary responsibility to ensure that projects on First Nations lands are conducted properly and that there is no harm to the lands and waters. I suspect that First Nations people will also be very observant and careful in this regard because, if things go wrong, it is the people themselves who will be adversely affected.

From my own experience in the Northwest Territories, I know that people are very careful when a project comes into their area. After many meetings and much study, a decision is taken on whether the project should proceed. Due consideration is given to ensure that the project is conducted as safely as possible.

People in the North have been concerned that pipelines on their lands and under their waters may eventually break and cause environmental damage, but that has not happened. I assume that the regulations will ensure that the projects are successful. However, there can be earthquakes, floods and other things that are not anticipated. In this world, we do the best we can. Hopefully, these regulations will provide as much protection as possible. If something goes wrong, I suspect that the federal government will ultimately be responsible. I do not think that these regulations will alleviate the federal government of any liability or responsibility. I think the fiduciary responsibility will still apply, but I am sure that everyone will do all they can to ensure that the projects proceed in a safe manner.

[Translation]

Hon. Madeleine Plamondon: I would like to ask Senator Banks a question, if I may.

[English]

The Hon. the Speaker pro tempore: The question should be asked of the last speaker, Senator Plamondon.

Senator Plamondon: Honourable senators, on page 2 of the bill, clause 3(2) reads:

Regulations made under subsection (1) may

(a) designate a particular undertaking or a class of undertakings to which the regulations apply;

Does that mean that the federal government could require certain companies to partner with Aboriginals? What does the clause mean?

Senator Sibbeston: I do not entirely understand the question, but these regulations cannot be imposed by the federal government on First Nations. The First Nations must always have band council approval before any of these regulations are applied on their lands. Companies, in conjunction with the federal government, cannot proceed with a project without First Nations consent, which is very important.

Hon. Terry Stratton (Deputy Leader of the Opposition): Honourable senators, although we support Bill C-71 in principle, it is quite intrusive into the inner workings of First Nations governments. I am quite concerned about the near complete absence of First Nations consultation and the fact that there has been little parliamentary scrutiny. This legislation is not specific to one nation, nor is it specific to one region of the country as is, for example, the Yukon agreement legislation.

• (1210)

The government has said in their documents that:

The First Nation-led legislative initiative was developed in cooperation with five partnering First Nations (Squamish Nation of British Columbia, Fort McKay First Nation and Tsuu T'ina Nation of Alberta, Carry the Kettle First Nation of Saskatchewan and Fort William First Nation of Ontario). All five partnering First Nations have passed Band Council resolutions in support of the legislative initiative, and each has plans for various commercial or industrial projects.

These five partnering First Nations have also taken a lead role in reaching out and engaging First Nation communities across Canada, providing information and soliciting support for the proposed legislation. Their efforts have included outreach with national and regional First Nations organizations, such as the Atlantic Policy Congress of First Nations Chiefs, who have indicated support of the proposed legislation.

As far as we can tell, there has been no real consultation. In Aboriginal country, no one seems to know that it even exists. Was it even discussed when the Senate Aboriginal Peoples Committee was in Tsuu T'ina? The excuse is that it just affects the five First Nations promoting it, that it is voluntary, that it affects no one else, et cetera. The bill is about Indian Affairs tightening the noose and foreclosing on self-government.

There is some opposition to this legislation from certain First Nations and from the Indian Resource Council of Canada. They view this legislation as an attempt by the federal Crown to shed the "fiduciary or trust-like obligation" that is owed to First Nations in respect of mineral development. The Indian Resource Council of Canada is not to be taken lightly.

Honourable senators, I will elaborate on the concern of the federal government's downloading of fiduciary responsibility by way of commenting on a couple of excerpts from the bill. The summary of the bill on the cover states:

As Parliament has exclusive jurisdiction to make laws in relation to Indian lands...

We know this is not true. Parliament's jurisdiction may make provincial jurisdiction ultra vires, but now that we have section 35(1), this is a First Nation jurisdiction that the government now wants to squelch. It could have been said, "Provincial regulatory laws do not apply on reserve." Why the preamble, then? It reveals the thinking of the government drafters.

Here is another example: The preamble states, "Whereas existing Acts of Parliament do not provide sufficient authority for Canada or First Nations to establish such [regulatory] regimes..."

My two comments are as follows: With section 35(1), an act of Parliament is not needed to "provide sufficient authority" for a self-governing First Nation to regulate its internal affairs, for example, establishing a regulatory regime which can cover its own conduct and, by contract, cover the conduct of anyone operating on its lands.

The second comment is that there is already an act of Parliament called the Indian Act which could be used. A First Nation can establish a bylaw by simply incorporating provincial law as its own law. This accomplishes the same end result as Bill C-71, without destroying First Nation jurisdiction.

Any senator of any party should be concerned about the regulations permitted by this legislation. Imagine this: Through regulation, the government can "confer any legislative, administrative, judicial, or other power on any person or body that the Governor in Council considers necessary to effectively regulate the undertakings."

Can you imagine that being acceptable anywhere else in Canada? How could a decision thus made be appealed if it could not go to the Federal Court for judicial review?

While some of the subsections require that the powers exercised be done in a manner similar to that of a province, other sections seem to give unbridled power. There is also a possible regulation, which I do not fully understand, but it raises great concerns as to how it can be used. The regulation permits "the disposition by any person or body of any right or interest in those [designated] lands for the purposes of the undertaking and specify the terms and conditions of such dispositions."

By regulation, the reserve lands could be included from the application of the Indian Oil and Gas Act. While the act is flawed, it at least provides certain protections to the way tremendous assets are dealt with, and there is no guarantee that the protections would be carried out in the regulations which could be established at the government's discretion.

Subsection (q) is really of great concern. It provides that the regulation could determine "the relationship between the regulations and aboriginal and treaty rights referred to in s.35 of the *Constitution Act*, including limiting the extent to which the regulations may abrogate or derogate from those aboriginal and treaty rights." Such legislation gives the government the right to determine the relationship, and implies that if it does not limit the extent to which the regulations may abrogate or derogate. The regulations can abrogate or derogate.

In section 5, there is the suggestion that the regulations may not be made unless there is a resolution of council requesting that the minister recommend regulations. I see some problems with that, but I also see some positive aspects to it. For instance, this will likely be a blanket authorization given by any First Nation coming under the act. However, there is no provision for a subsequent council to withdraw from the regulations. Does this

mean a separate regulatory regime for each First Nation coming under the act? Is it not more logical to assume that there will be blanket regulations which will apply to all First Nations which come under the act?

In this regard, the government's backgrounder describes that the "Participation is optional; the development of project-specific regulations would be triggered at the request of the First Nation through a Band Council Resolution and with community ratification." There is no real requirement for community ratification that we can find, at least, and I think that should be there. As well, they should consider that under the regulations.

Note section 8(2). It provides for appeal or review by provincial courts of the exercise of provincial law unless otherwise provided by regulation. In other words, by regulation, the right of appeal could be totally withheld.

The implication of section 12 is not clear. No civil proceedings can be brought against the Crown. I interpret this to mean that even the First Nation could not subsequently sue the Crown against any abuses, mismanagement, et cetera. What is it that the Crown anticipates could happen that would cause it to provide itself with that protection? The legislation and the department's information says or implies that, "The legislation limits the future liability of the Federal Crown." That is a crafty way of saying that The First Nation can never sue Indian Affairs.

With respect to the matter of supremacy, it says, "Federal regulations passed under this Act prevail over all First Nation laws or by-laws." While I think this is true, it is not easily apparent in reading the bill. This is worrisome because it provides precedence for a regulation explicitly not subject to review under the Statutory Instruments Act. It could demolish a bylaw, including existing bylaws which have the effect of federal legislation.

The department characterizes the legislation as being "self-government." How? Where? This is entirely contrary to self-government. I quote, "The legislation is important sectoral self-government legislation that will cure a gap in the Indian Act..." I again quote, "...a gap in the Indian Act?" First, I do not think there is a gap, and second, why not fix the gap within the Indian Act if that is a concern? The big question is: Why not use this as an opportunity to do some real self-government and encourage First Nations to pass regulations which they consider to be to their advantage.

I understand that the government has said or indicated that Bill C-71 will "foster economic development on Indian reserve lands," and that there will be "an immediate and positive economic impact." I guess that has yet to be seen. We are a little concerned, needless to say, but without going forward, we will never know.

The largest dollar project proposal to come under this legislation is the Fort McKay/Shell Oil Development. I think Parliament should hear what Shell Oil thinks of the legislation. Are they saying they will not invest unless the bill passes? That would be interesting to know.

• (1220)

In conclusion, if there ever was such a case of sober second thought, I think we should watch this legislation in the future with respect to the regulations to ensure that the concerns I have expressed have been addressed.

Hon. Lowell Murray: Honourable senators, I appreciate the analysis that has been placed on the record by Senator Stratton, and I am glad it is on the record for what I am sure will be future reference.

In particular, I was interested in his comments and criticism of the lack of consultation with regard to this bill because those statements run completely counter to what we have heard from the sponsor of the bill, Senator Banks, as well as from Senator Gill and from Senator Sibbeston. I will return to that matter of consultation and indeed opposition to the bill in a moment.

I think we all agree that we are rushing legislation through under the gun of impending dissolution rather faster than we would ordinarily do. I think we know that we are putting legislation through to which under normal circumstances we would give greater study and examination.

What compounds the matter in the case of most of the bills we have seen yesterday and today is that the House of Commons also rushed them through. One has only to look at the Journals of the House of Commons to see such descriptions as: "deemed concurred in at report stage;" "deemed read the third time and passed;" "deemed reported with amendment;" "deemed considered in Committee of the Whole;" "deemed reported without amendments," and so on. It has been something of a rush job for much of this legislation in the other place.

In the case of Bill C-55, we heard a very coherent and, in the end for me, persuasive case on the part of the Chairman of the Standing Senate Committee on Banking, Trade and Commerce as to why that bill ought to be put through now. He accompanied this with a report on various undertakings he had been given by the government, which, if they are respected, will help to mitigate the risks we always take when we move too quickly with important legislation.

With regard to this bill, I abstained on the motion to invoke rule 38 and put this bill through all of its stages by 2:30 this afternoon. I abstained only because the process was not clear to me.

I am now told informally that we will not have Committee of the Whole, that the intention is to proceed through second reading, immediately to third reading, and if the Senate is so disposed at that stage, to pass the bill.

Before we do that, I think I should place on the record, and Senator Stratton alluded to this in his speech, the fact that strong opposition both as to process and to substance has been expressed by the Chiefs of Ontario. Honourable senators, I presume, have received the same documents that arrived in my office in the last day or so. One is a copy of a letter dated November 23 to the Minister of Indian Affairs and Northern Development, Mr. Scott; and the other document is addressed to the Senate of Canada dated November 25. Both of these documents are signed by Angus Toulouse, Ontario Regional Chief.

I think I saw Chief Toulouse on television within the past 24 or 36 hours speaking from Kelowna where he is attending the first ministers' meeting on Aboriginal matters. I assume therefore he is a person of some considerable standing in the community.

I do not make his arguments my own. I simply say that, in fairness, his concerns should be placed on the record. I will not read the documents in their entirety. I will in a moment ask for consent to table them.

In his letters to Minister Scott, Chief Toulouse states that the First Nations who had concerns about the bill were not even allowed to appear before the House of Commons committee that studied it.

I may say in parentheses that when I looked at the legislative history of this bill, it was introduced on November 2 and then sent to the Standing Committee on Aboriginal Affairs and Northern Development of the House of Commons before second reading on November 18, reported without amendment on November 22, deemed concurred in at report stage and read the second time, debated at third reading, deemed read the third time and passed, all on November 23. There was no opportunity for Chief Toulouse to appear and express his concerns.

What he says to the minister, first of all, is that he protests quite vigorously the lack of consultation and opportunity to appear before a parliamentary committee. He makes several substantive criticisms of the bill. I will not quote them verbatim, but he says that the approach of incorporating provincial law by reference provides a model that could be used elsewhere and represents a precedent never before used in a piece of national legislation potentially applying to First Nation reserve lands. They have very considerable concern about that.

Second, he says that the issue of the appropriate use of federal regulatory powers in this case and incorporating provincial law to apply to First Nations land rather than advancing recognition of inherent law-making powers is of deep concern.

Finally, he says again that the failure to allow any First Nations who may have concerns or be opposed to the bill to appear before the Commons committee is completely unacceptable and undemocratic.

Then in his brief to the Senate, he states that the manner in which this legislation was developed and rushed through Parliament constitutes a breach of the Crown's fiduciary duty to properly consult with First Nations before making a decision. He wants the Senate to hold the government accountable and ask what review of section 35 compliance the government has undertaken with regard to this bill or, for that matter, any other bill that comes before Parliament.

Honourable senators, what I think we should have done, frankly, is arranged to have even a brief meeting of the committee of the whole today to have heard Chief Toulouse or others who may have concerns about this bill. Perhaps we may have heard from the minister as well. We still could have dealt with the bill in all stages, as that seems to be the wish of the Senate. However, we are proceeding even faster, I think, than we need to or than is advisable in this case.

I simply want to place the concerns of the Chiefs of Ontario on the record. With the permission of honourable senators, I would request leave to table the two documents received from Chief Toulouse.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

• (1230)

Hon. Jack Austin (Leader of the Government): Honourable senators, I want to speak briefly in this debate because issues have been raised, and the Senate should be advised of the views of the government with respect to those issues.

First, I want to say that none of the fiduciary obligations of the Crown is affected by this legislation. The fiduciary obligations of the Crown can only be surrendered by specific legislation, and that was illustrated when we had the Nisga'a Final Agreement before us. That was an example of an Aboriginal community asking for the rights of self-government and agreeing to the termination of fiduciary obligations.

This is not so in this case, honourable senators, and the honour of the Crown with respect to dealing with Aboriginal communities who may bring themselves under this legislation continues.

The key issue here has raised a political division within the Aboriginal community. There are members of the Aboriginal community who maintain that their inherent law-making rights, as we have heard quoted by Senator Murray, and their political entitlement to recognition as sovereign nations must come before there are any changes to the Indian Act or any steps taken that would create a differentiation in their economic situation.

In my view, that has not been accepted by the majority of the Aboriginal communities in this country. We have been passing legislation at the request of a number of Aboriginal communities who have a different philosophy. The philosophy of entitlement to sovereignty is a political argument that says, "We will keep our current condition within Canada physically, legally as leverage, and," if I may say so, "the worse our condition, the more your conscience will recognize us as First Nations." That is a political argument. It is one to which they are entitled, of course. However, it is not an argument that is accepted by many other Aboriginal communities. That Aboriginal policy or political thinking certainly does not pertain in my province.

I believe the majority of the Aboriginal community — it is interesting that we are speaking here today during the Kelowna first ministers' conference — want to develop their economic

self-reliance and their economic capabilities, and, where they have opportunities to do so, they want to be free to do so. Basically, the philosophy is that their political power will grow out of economic growth, out of obtaining wealth and not out of poverty. Thus, there is this dichotomy in the Aboriginal community, and this bill reflects the wishes of those who wish to gain economic growth.

Senator Stratton asked why this is not just a bylaw that could be passed by the band council. The answer is simple. There are major economic investments which these communities have the potential to realize, and those investors want the security of regulations under statute. Bylaws can be easily changed. Regulations under statute are more difficult to change. Therefore, there is a greater certainty for those investors where the band council acts under the authority of regulations.

Some of the arguments that have been put in opposition to this bill are an attempt to connect dots that are not connectable. I do not want to go on at any length because Senator Banks has the right to conclude this debate and will make additional comments.

However, I want to emphasize one point that the Honourable Senator Banks has made and to which Senators Sibbeston and Gill have referred, which is that no Aboriginal community need put itself under the provisions of this legislation. It would require a band council resolution and ratification by the members of the Aboriginal community. Those are two very serious and highly democratic steps, so there is no community that will take action here unless it should wish to do so. Otherwise, the status quo will remain for the others.

Hon. Consiglio Di Nino: I wish to ask a question of Senator Austin. The comments of my two colleagues during debate that most resonated with me was not on the merits of the bill. Some would be for it and some against it; that is always the case.

My concern is that some Ontario representatives, in particular, were not given or were denied the opportunity to appear before either the committee of the other place or the committee of this place to put their concerns on the record. We are here under the authority of the Constitution of our country to be a body of sober second thought, if I can digress for a moment. When a controversial bill comes before us, I am often asked which way I will vote on this bill. My standard answer is that I will wait until I listen to the people who will be most affected by it. I will listen to their opinions, thoughts, comments and wisdom; I hope I will be able to make a fair judgment after that.

We denied that opportunity to some folks that I heard of, and that is inappropriate for our institution. It further demeans the respect for our institution.

Why do we not give interested parties an opportunity to present their cases?

Senator Austin: Honourable senators, I would like to raise two points in response. First, this bill only affects those who wish to be affected by it. Therefore, there are others across town who might care whether I cut my grass today or tomorrow or two weeks from now, but how are they affected? That is the answer to the first question.

With respect to the second question of the honourable senator, this chamber would want to have witnesses and listen. Our business is to consult. However, we have been placed in a difficult position by the political process. The party to which Senator Di Nino belongs has placed a non-confidence motion in the other place, and it will be voted on Monday evening.

Therefore, we must come back to a simple human principle: Is the bill good? I say it is. Is it the best bill on the subject? It probably is not. It is the old axiom that the perfect can drive out the good. We must be pragmatic. We have a trust relationship with Aboriginals. We must act in favour of that trust relationship because these communities have asked us to act in their interests. It affects no one else.

Senator Di Nino: For the record, I do not think it is ever wrong to listen to people who have an interest in the issue, and we could have easily done it, as Senator Murray suggested, with a brief meeting of the Committee of the Whole.

Senator Austin: As the honourable senator pointed out, the chief is in Kelowna and the minister is in Kelowna. An important conference is taking place that deals with the economic growth of the Aboriginal community. That community, as expressed by the major organizations representing Aboriginals in this country, including the Assembly of First Nations, is there asking for policies from the federal, provincial and territorial governments to deal with their economic growth, and they are not putting principles of sovereignty and political imperatives ahead of their economic interests.

Debate suspended.

• (1240)

TELECOMMUNICATIONS ACT

MESSAGE FROM COMMONS— SENATE AMENDMENT CONCURRED IN

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons with Bill C-37, to amend the Telecommunications Act, and acquainting the Senate that they have agreed to the amendments made by the Senate to this bill without amendment.

Hon. Senators: Hear, hear!

FIRST NATIONS COMMERCIAL AND INDUSTRIAL DEVELOPMENT BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Day, for the second reading of Bill C-71, respecting the regulation of commercial and industrial undertakings on reserve lands.

Hon. Tommy Banks: Honourable senators, I would point out that if I speak now, it will serve to close the debate.

The Hon. the Speaker pro tempore: Does any honourable senator wish to speak?

Senator Banks: Honourable senators, I am sorry to take a bit of time, but I want to answer some specific questions that have been asked before we proceed with this bill. I will do them in no particular order.

Senator Stratton raised several questions, in one of which he said the Indian Resources Council of Canada opposed this bill. I am obliged in response to read honourable senators a letter from the President and Chief Executive Officer of the Indian Resources Council, addressed to Chief Sanford Big Plume. I must quote the letter in its entirety. It is dated November 18, 2005.

Re: Bill C-71(FNCIDA)

Further to our telephone conversation with regards to the above, I want to clearly state that the Indian Resource Council has not sent any official correspondence or communication to the Aboriginal Standing Committee nor to any of its members.

We have sent correspondence to the committee on the matter of Bill C-54 and we are quite disappointed that the committee refused to hear our concerns. We are more alarmed that one of the Standing Committee's members had stated that he had consulted with some of our bigger producing tribes on the contents of Bill C-54, when in fact this was not the case as evidenced by our member tribes at the Annual General Meeting (AGM) on November 8 & 9, 2005, in Edmonton, Alberta.

I am now informed that one of the committee members is now indicating that the IRC has sent official communication to the Standing Committee and that we are against Bill C-71. This is also an untruth.

Chief Sanford, perhaps you can straighten out certain members of the Standing Committee and ensure that they carry out their responsibilities in an honest matter; based on dignity and integrity and not on lies.

The second question raised by Senator Stratton was whether or not Shell Canada, in the case of one of the participating partner nations, should we pass this measure, will be able to use the provisions of this bill. I quote to honourable senators a letter from Brian Straub, Senior Vice-President of Oil Sands for Shell Canada Limited, dated November 1, 2005, and addressed to Chief Jim Boucher of the Fort McKay First Nation.

Shell Canada Limited is in support of the proposed First Nation Commercial and Industrial Development Act (FNCIDA). We understand that this legislation is a crucial component for major developments on Reserve, including commercial scale oil sands mining.

I want to add something else. He says:

Additionally, it provides the door of opportunity for all First Nations across Canada to work with industrial developers in large projects so that they may achieve their goal of significant economic success.

That speaks to what the leader was talking about, the fact that there are some First Nations who, for whatever reason, do not wish to operate with a set of federal regulations that will apply on reserve lands now before achieving certain other goals.

Honourable senators, the point of this legislation is to enable that access to opportunity about which I spoke earlier on the part of First Nations who have not achieved complete self-government. Senator Stratton referred to the concerns of some nations that this abrogated self-government. First Nations who have achieved complete self-government do not need this legislation. They will never do anything to access the opportunities that exist under this legislation because they are absolved from these responsibilities. They can make their own laws. They can deal with their own lands in ways that they want. This bill is for nations that are on their way to obtaining complete self-government and want to obtain economic self-sufficiency and improve their social and economic conditions along the way. That is to whom this bill is directed.

Senator Stratton used the word "intrusive." That word, with a careful reading of this bill, is oxymoronic to the intentions of this bill, since, as the Chair of the Standing Senate Committee on Aboriginal Peoples has said, not only is this bill not intrusive, but a First Nation must take action in order to have anything happen under this bill. It cannot be imposed upon them. There is nothing that anyone can impose upon any First Nation based upon this bill. In answer to a question asked earlier by the Honourable Senator Plamondon, there is nothing that would permit the Government of Canada to impose a commercial concern in preferential consideration to another one on a First Nation. If the First Nation does not agree to any aspect of what I will colloquially call a deal under this legislation, then it stops. It cannot happen. It will not happen.

The disposition that was referred to by Senator Stratton has to do with leases and with respect to the abdication of fiduciary responsibilities that was referred to in an earlier question. An indication of the fact that that will not happen is given in the fact that nothing changes the ownership and responsibility of the land in this case. The only land use that will be made is on the basis of a lease or some other similar disposition of the land.

In answer to another question raised, there is not and there cannot be anything to which the term "blanket" would apply under this legislation because it is specific to each individual situation. The regulations that will be agreed to by all of the parties, beginning with the First Nations under this legislation, will be different in each and every circumstance because the nature of the development will be different in each and every circumstance. Two of the partnering nations right now are going to move. One of them will develop oil sands. The other one will pursue a large residential development and deal with waste water. They are totally different. The regulations will be totally different, so the word "blanket" is also oxymoronic when it comes to this legislation.

As Senator Stratton pointed out correctly, the ratification process is not in this bill. Nothing in this bill states that First Nations will vote on these deals. It is a constructive relationship between this and the Indian Act because the Indian Act provides

that no disposition of Indian land, of reserve land, including a lease or anything like that, can be made unless a referendum is taken on all parts by all members of the respective First Nation. That is in the Indian Act. That cannot be changed. It is not changed. When it happens, if it were to happen, having to do with regulations under this act, the Indian Act would prevail and such a referendum must take place because of those provisions.

Senator Stratton made reference to the question of the courts. Any legal action under these regulations would flow through the provincial courts and then to the Supreme Court, not through the Federal Court. The reason for that is so that there is consistency, because matters that would be brought into court under the provincial regulations — and remember that the federal regulations will very closely approximate those provincial regulations — would proceed through the provincial courts and then into the Supreme Court of Canada. That will be the case with court action that would take place under these regulations as well.

• (1250)

In short, this is enabling legislation to which First Nations, should they choose, have access. Should they choose, they can use it. Nothing can be done with respect to any of these regulations or any resource that exists in any First Nation reserve without first having received the approval, including a referendum, followed by another band council resolution for whatever action might take place.

I urge honourable senators' support for this bill.

Some Hon. Senators: Question!

The Hon. the Speaker pro tempore: I shall now put the question.

It was moved by the Honourable Senator Banks, seconded by the Honourable Senator Day, that this bill be read the second time.

Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

The Hon. the Speaker pro tempore: When shall this bill be read the third time?

Senator Banks: I move that this bill be placed on the Orders of the Day for third reading later this day.

Some Hon. Senators: Now, now!

Senator Banks: With leave, I move that the bill be read the third time now.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Hon. Madeleine Plamondon: No.

The Hon. the Speaker pro tempore: Leave is not granted.

Senator Banks: In accordance with the house order, I move that this bill be placed on the Orders of the Day for third reading later this day.

The Hon. the Speaker pro tempore: It is moved by the Honourable Senator Banks, seconded by the Honourable Senator Day, that this bill be placed on the Orders of the Day for third reading later this day.

Senator Stratton: Now!

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt this motion?

Some Hon. Senators: Agreed.

Senator Plamondon: I already said that leave is not granted.

Senator Kinsella: We are under the house order. Call the next item.

On motion of Senator Banks, bill placed on the Orders of the Day for third reading later this day.

[Translation]

A BILL TO AMEND CERTAIN ACTS IN RELATION TO FINANCIAL INSTITUTIONS

SECOND READING—DEBATE SUSPENDED

Hon. Mac Harb moved the second reading of Bill C-57, to amend certain acts in relation to financial institutions.

He said: I thank the honourable senators for giving me the opportunity to move second reading of Bill C-57. Federally regulated financial institutions like banks, insurance companies and cooperative credit associations all play a leading role in the Canadian economy.

It is therefore important that they be equipped with the most modern and sophisticated governance tools. Bill C- 57 follows up on a government commitment in that respect. It will bridge the gap between the governance standards for financial institutions and those adopted in 2001 for other federally regulated corporations and update certain governance standards that are unique to financial institutions.

The new legislation will amend elements of the Bank Act, the Insurance Companies Act, the Trust and Loan Companies Act, and the Cooperative Credit Associations Act.

In a word, this bill is providing Canadian financial institutions with the advanced governance frameworks they need in order to be able to compete both nationally and internationally. How essential is Bill C-57 exactly?

The financial services sector is one of the key foundations of any modern industrial economy, and Canada is no exception. In fact, financial institutions employ about 600,000 Canadians and account for something in the order of 6 per cent of Canada's GDP. They are also leaders in the use of information technology.

As such, the financial services sector is a key part of our economy and it has an essential role to play not only in safeguarding wealth, but also in ensuring stability and fuelling growth and productivity.

To enable Canadian federally incorporated financial institutions to play their role, related statutes such as the Bank Act, the Insurance Companies Act, the Trust and Loan Companies Act, and the Cooperative Credit Associations Act set out governance rules for them.

Governance rules underpin the effective functioning of these institutions by, in particular, setting up rules relating to the rights of shareholders, policy holders and members, the role of directors, auditors and other advisers, and rules relating to the preparation, review and disclosure of information.

The governance framework set out in the financial institutions statutes uses the Canada Business Corporations Act, otherwise known as the CBCA, as its point of reference. Changes made to this act are normally implemented in the statutes as appropriate for financial institutions.

In 2001, the government undertook a comprehensive reform and modernization of the CBCA. Bill C-57 would provide financial institutions with the same modern governance tools by updating their governance framework generally along the lines of the changes made in the CBCA in 2001 and would update certain governance standards that would be unique to financial institutions.

[English]

Honourable senators, we ought to look at the measures within this legislation. You will see that there are five broad categories: clarifying the role of directors; enhancing the rights of shareholders; modernizing governance practices; strengthening the governance element of the regulatory framework; and increasing disclosure of respect by participating in adjustable life insurance policies.

I should like to walk honourable senators through those categories briefly and outline how each one will benefit from this proposed legislation. First, regarding clarifying the role of directors, in recognition of the importance of an effective board of directors in protecting the best interests of a financial institution, the financial institution statutes set out the standards, qualifications and duties expected of directors of those institutions.

Among the provisions in Bill C-57 is a clear statement that the due diligence defence is available to directors of financial institutions, just as it is available for directors of other Canadian corporations. This encourages directors to take proactive measures to fulfil their legislative responsibilities and to act with confidence that reasonable defences are available in the event of challenges.

Bill C-57 gives directors of financial institutions the same rights as directors of other corporations, in that they can demonstrate that they have exercised the appropriate care, due diligence and skill in the course of fulfilling their responsibilities.

The second element of the bill is to enhance the rights of shareholders. Here again, honourable senators, there would be no doubt that everyone would agree that an important element of good corporate governance is a shareholder's ability to monitor and influence corporate performance. The financial institutions statutes currently set out the rights of shareholders to participate in major decisions of financial institutions in which they have interest.

• (1300)

However, for shareholders to exercise their right to participate, it is important to ensure that they have timely access to corporate information. Bill C-57 enhances the ability of shareholders to exercise their rights by allowing them greater freedom to communicate without triggering the proxy rules. This means that shareholders who wish to communicate about issues to be considered at the annual meeting must circulate a formal document to every shareholder of the bank. This can be an impediment to informal communications between shareholders. Bill C-57 will provide greater premium for shareholders to communicate how they intend to vote at an annual meeting and will provide greater freedom to communicate with small numbers of other shareholders.

Under the third category, modernizing governing practices, Bill C-57 recognizes the importance of keeping good governance practices up to date. To that end, the proposed legislation adds a going-private framework and enables insider reporting, proxy and prospectus rules to be harmonized with the rules adopted by provincial regulatory authorities. Bill C-57 also facilities a more efficient flow of information using electronic communications. This will not only reduce compliance costs but also promote more effective governance practices. For example, this change will make it possible for financial institutions with written consent to communicate with their shareholders electronically.

Under the fourth category, strengthening the governance elements of the regulatory framework, Bill C-57 proposes to strengthen a number of governance elements of the regulatory framework, including improving the flow of information to OSFI. Federal financial institutions, unlike ordinary business corporations, are regulated by the Office of the Superintendent of Financial Institutions. As part of its mandate, OSFI oversees the safety and soundness of federally regulated financial institutions. The bill also harmonizes various governance standards within and across the financial institutions statutes. For example, medium-sized insurers, trust companies and loan companies would be able to apply for an exemption from the requirement that they float 35 per cent of their voting shares on a stock exchange. This reflects the same ability currently enjoyed by the same sized bank.

The fifth category, increasing disclosures in respect of participating and adjustable life insurance policies, relates to a proposed change to the current policyholder governance framework in the Insurance Companies Act. This framework

reflects the unique interests and role of policyholders in the corporate governance of insurance companies. The proposed changes would work to increase disclosures in respect of participating and adjustable policies. For example, the proposed legislation requires directors to establish policies in respect of the management of participating accounts and requires directors to establish criteria for changes that the company makes in respect of adjustable insurance policies. It requires the actuary of the company to prepare fairness reports for the board's consideration. It also sets out requirements for communicating and making information available to participating and adjustable policyholders and shareholders.

Honourable senators, my remarks thus far reflect this government's commitment to update the financial institutions governance framework that was announced in Budget 2005. In keeping with the Government of Canada's commitment to conducting regular reviews of the federal financial services regulatory framework, this year's budget also announced a review of the legislation concerning financial institutions. These reviews play a key role in ensuring the efficiencies and competitiveness of the sector. Work will progress on a review of the federal financial services regulatory framework over the coming months with a view to having legislation ready to come into force by the deadline of October 2006.

Honourable senators, it is important to note that Canada's practice of regular reviews of the financial services sector makes us unique compared to virtually every other country in the world. This practice provides our financial institutions an important advantage vis-à-vis our foreign competitors.

Finally, honourable senators, Canada's financial institutions form an integral part of Canada's economy. In the face of ever-expanding globalization, they are also major players on the international scene. It is, therefore, crucial that Canada's financial institutions have the modern governance tools that they need to compete at home and in a global marketplace. The proposed legislation before the house today will provide them with those tools. I give Bill C-57 my full support, and I urge all honourable senators to do the same.

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Would the honourable senator entertain a question?

Senator Harb: Yes.

Hon. James S. Cowan: Could the honourable senator tell the house to what extent Bill C-57 was examined when it was before the House of Commons, and by which committee? Second, what was the general thrust of the submissions made to that committee?

Senator Harb: There is no doubt about the bill having had due process in the House of Commons. There was consultation with stakeholders in the industry, and the majority of suggested amendments were incorporated in this bill. Bill C-57 had the full support of the committee in the other place and in the House of Commons.

To that extent, I can say that this bill is long overdue. As honourable senators are aware, this is part of an update that took

place in 2001 in that it brings the financial institutions to the same level playing field and improves on some of the issues brought forth to the Government of Canada before the bill was introduced. I would say that the bill had the full consideration that it deserved and, therefore, earned the full support of the House.

Hon. W. David Angus: Honourable senators, I rise to join the debate at second reading of Bill C-57, to provide a corporate governance framework for banks and other federally regulated financial institutions such as trust companies, insurance companies and cooperative credit associations.

More important, honourable senators, the framework in the bill will bring the federal legislation regarding financial institutions into harmony with the companion legislation that governs corporations generally in the Canadian business world, pursuant to amendments to the Canada Business Corporations Act that were enacted in Bill S-11 in 2004. As honourable senators are aware, the CBCA is the main statute that sets out the rules by which federally incorporated businesses govern themselves. The CBCA went through a massive updating.

• (1310)

That updating followed extensive and exhaustive study by the Standing Senate Committee on Banking, Trade and Commerce, and other bodies that were involved with the modernization with respect to Canada's corporate statutes and regulations.

Then it became evident that the federally regulated financial institutions were far out of date in terms of their corporate governance and other elements relating to their internal management and control. Therefore, another study was conducted by the Banking Committee, namely, a study on corporate governance of federally regulated financial institutions. The committee duly heard witnesses, travelled across the country and finally reported to the government.

That led to the issuance by the federal government of a consultation paper in January 2003 entitled, *Corporate Governance of Financial Institutions*. I understand that consultation paper was widely circulated and discussed with the stakeholders, and culminated in Bill C-57.

I was aware that Bill C-57 had been introduced in the other place. I had started to become familiar with its terms; and ultimately, of course, with my colleagues in the Banking Committee, to give it the sober second thought that we all agree this kind of framework legislation is entitled to. Indeed, our constitutional duty dictates that we should give legislation this kind of thought.

Therefore, honourable senators, you can imagine my concern earlier this morning. Not being a member of the higher echelons of the administration of this place, I was not aware that this piece of framework legislation was going to be dealt with today. It landed here on my desk, and on everybody else's desk. I think it is less than an inch thick; we have been talking about how many pages. This is much longer than Bill C-55; it is 279 pages long.

I thought to myself, "Oh, my goodness," because I realized there was no time for it to be referred to the Banking Committee. I realized that we were going to be asked to fast-track this bill through this place, as we now are; and I wondered how on earth we were going to deal with this request.

I have been thinking madly about it for the last two hours. I have consulted with colleagues on both sides of the chamber. I have looked through all my files, and I have determined that there is no great outcry from the stakeholders, as there was in the case of Bill C-55. Then I started to think, what are the differences between this bill and Bill C-55?

First, this bill completes a process that was initiated in the wake of Enron and scandals in the corporate world earlier in this decade. Canada, I am happy to say, has been at the forefront in terms of legislating and regulating measures that will help to restore investor confidence, and that will develop frameworks in which our corporate world — our capital markets and the regulatory bodies that govern them — can function in a way that will give transparency and confidence to our investors.

One area in which we were not up to date was the area relating to the financial institutions, such as the insurance companies. There have been a number of so-called scandals relating to activities, financial products and the like, emanating from some of these institutions. Therefore, it is high time that we brought the corporate governance framework for financial institutions into line with the ones we have already put in place for other publicly traded, private-sector corporations.

I agree with Senator Harb and the shopping list he went through in terms of all the good things that are in there. That is not really why I have risen to speak. More importantly, I want to continue to differentiate this bill from Bill C-55. Senator Cowan, I suspect your question might have gone to this point, when you asked about the passage through Parliament of Bill C-57.

There have been only two significant protests in the last 48 hours, and before — since the bill was tabled in the House of Commons — that could be deemed to be substantive criticisms of the legislation. In other words, I have not had 1,000 emails, nor has Senator Grafstein. We have discussed it and there has not been the same kind of groundswell saying, this would be a terrible breach of your constitutional duty if you did not have this bill in committee, study it in depth, and make amendments that are crying out to be made. We do not see that with this bill.

What we do see, though, is the Canadian Institute of Chartered Accountants, which has been lobbying for at least 12 years that I know of for a modified, proportionate responsibility. This proportionate responsibility would replace joint and several liability for acts that may be committed in which accountants are not the negligent party, but they have been swept in with other defendants and, even if found 1 per cent at fault could pay 100 per cent. The same joint and several liability applies to other financial advisers — investment bankers, lawyers, evaluators, appraisers, engineers and architects — so why should there be a special deal for accountants?

Let me tell you, honourable senators, the Banking Committee studied this question as well on a number of occasions. At the time when Senator Kirby was chairman, we had an exhaustive study. Rightly or wrongly, the Banking Committee made its recommendations and they were incorporated in the Canada Business Corporations Act. The government was fully aware of all the arguments, and the Banking Committee issued a report.

In its wisdom or otherwise, as a matter of public policy, the government decided not to grant modified proportionate liability in Bill C-57. I do not know what went on in the cabinet room; but I do know this government has decided upon a fundamental matter of public policy. The accounting profession is well aware of that. If we went to the Banking Committee, studied the bill and came back to recommend it, I am sure it would be voted down. Therefore, I find it is not analogous in any way to the kinds of imperfections we find in Bill C-55.

The other complaint came through the Canadian Bankers Association with respect to a provision that I understand requires that minutes of meetings be made public in certain circumstances. For example, if a director of a bank, during deliberation on a major loan for an acquisition, declares a conflict of interest — say he is also chief executive officer of Falconbridge, which could be affected by the deal — this bill requires that the minutes of that directors' meeting where that declaration of conflict of interest is declared be made public. The same rules are found in Bill S-11. The same rules are now being made to apply to banks.

They have protested. Their protests were considered, I understand, by the government, and they were considered in the other place. Therefore, I do not consider that to be the type of thing either that we found with Bill C-55.

I am not aware, nor is Senator Grafstein or many of my other colleagues that I have canvassed this morning, of any other flaws with this bill. On the contrary, in terms of the financial services sector, the financial community at large and investors in particular, the kinds of things that are laid out in this bill are things that we have sought for a long time, and that respond to recommendations made by the Banking Committee.

I can assure you, honourable senators, in the course of the rest of the day if things happen that are out of keeping with the usual procedures and fall into this extraordinary circumstances syndrome, I am comfortable that this bill can go forward without going to committee and having the exhaustive study that it would normally receive. I say that in a guarded way because on the face of it, Blackstone would probably roll over in his grave because the check and balance is not being accessed in this case. Therefore, we have to be careful.

However, I want to add my little word for you all, honourable senators. In this case, unless there are some last-minute protests, even though this bill is not 100-per-cent satisfactory to everybody out there in corporate Canada, the issues that are controversial have been considered by the government. As a matter of policy, the government did what it did. I am sure that even if the Banking Committee proposed amendments, they would be voted down.

• (1320)

In that spirit, honourable senators, I must say that I approve, and I believe my colleagues on this side approve, in principle the legislation that is proposed in Bill C-57.

Hon. Jerahmiel S. Grafstein: Honourable senators, I found myself in exactly the same position as my colleague, the Deputy Chair of the Banking, Trade and Commerce Committee. We were confronted by this bill today. We had received notice of it earlier, and that allowed us an opportunity to review our files and consult prior to his address. I want to say at the outset that I affirm and agree with what he said.

I have received, as Chairman of the Banking Committee, two concerns — one from the Canadian Institute of Chartered Accountants and one from the Canadian Bankers Association. Rather than trying the patience of our house, I affirm, exactly in precise detail, what my honourable colleague on the Banking Committee has indicated to the house.

Let me say this: Members of the Banking Committee have been critical of the lag in Parliament for modernizing our important legislation dealing with corporate governance. This bill has been in process for 12 years, as the honourable senator said. It has come before the Banking Committee. We have dealt precisely with the issues of concern to these two objectors. These are the only two that I have received as of this minute.

Barring other unforeseen things that may happen today, this is not the case that we talked about earlier today because this has been well known to all members of the financial institutions that are affected by this legislation.

There are, in fact, two issues of policy. The Banking Committee, in hearings and in reports, opined on those two issues — the question of the proportion of liability with respect to chartered accountants and the question of privacy with respect to directors declaring interests. I am not sure whether the Banking Committee, had it looked at the latter question today, would have come to a different conclusion in conformity with this particular bill

Honourable senators, while this case is unusual, it is not in any way, shape or form a case similar to Bill C-55. We have presented that case. We have approved that in committee. I agree with our deputy chair, and I agree with Senator Harb's excellent presentation. This bill is a long-needed step in the modernization of our governance structures that will allow for a level playing field and give our shareholders and investors, who are responsible for wealth creation, the opportunity to move ahead. I agree with this goal, senators, and will be supporting this bill.

Hon. Serge Joyal: Honourable senators, I am in a special position. I would like to put on record my position in relation to this bill that has been circulated this morning on our desks, Bill C-57. Of course I did not have time to read it through, but I did read the summary, which refers to a certain number of financial institutions and states:

This enactment amends certain Acts governing federal financial institutions. It makes changes to the corporate governance framework of banks, bank holding companies, insurance companies, insurance holding companies, trust and loan companies and cooperative credit associations to

bring the Acts governing those institutions up to the standards adopted in 2001 for business corporations in the Canada Business Corporations Act that are appropriate for financial institutions and adapted to the financial institutions context, and updates certain governance standards that are unique to financial institutions.

Honourable senators, I have listened to our honourable colleagues who have spoken today. I must declare that I might be in a position of appearance of conflict of interest, so I will refrain from participating in the debate and the voting on this bill. I would like the today's *Journals of the Senate* to reflect that fact.

The Hon. the Speaker pro tempore: Senator Joyal has now made a declaration of interest in this bill. He will not be debating or voting.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I appreciate Senator Joyal's integrity. I am wondering if a number of other senators who have not read Bill 57 may not be in a conflict of interest situation.

Contrary to what Senator Angus said, there are indeed 283 pages in this bill. I really think it is going a little too far to ask the Senate of Canada, this chamber of sober second thought, to now pass a bill that was passed in the other place on November 23. They throw at us this massive 283-page document which may, unbeknownst to them, put a number of honourable senators in an embarrassing situation.

I consulted the Senate ethics officer about 15 times because I felt uncomfortable and wanted to be sure to do the right thing. I did not read the bill, but it is not because I am lazy. I just received this incredibly complex and massive 283-page document, while we have bright minds, top-notch bankers who sit on the Standing Senate Committee on Banking, Trade and Commerce, and whose job is precisely to review these bills.

[English]

When I was at university, Professor Olivier used to say to his naive students that Parliament is divided into three institutions: the House of Commons, the Senate and the Banking Committee of the Senate.

Some Hon. Senators: Hear, hear!

Senator Prud'homme: I am ready to believe that Professor Olivier, who was a predecessor to Mr. Audcent, our law clerk, was quite close to the truth. It is quite an institution. That is probably why I did not stay long on the Banking Committee.

I may have offended a senator earlier today. That is not my style. If, in the heat of the discussion, I offended a senator by saying that I was told that the government is very happy to announce that Senator Prud'homme is now a member of the Banking Committee, if that was taken as an insult by the honourable senator — she may prefer that I not mention her name — it was not my intention to insult her, especially since I

praise her so much for other work she does and other work she will do and in which I want to be involved with her. If she would only look at me, I would say that is the end of the matter. If not, well, we can continue.

Having said that, referring back to this brick, could you imagine if the press was outside later and grabbed five of us and said, "Oh, you just voted on Bill C-57." If they poked the mike right under my nose and said, "Would you kindly give us your general views," I would do as Senator Joyal has just done. Not only would I do that, but I would take that summary page and carry it in my pocket until we adjourn definitely for the election. If I am stuck having to explain, I will give them a summary and disappear.

I am not satisfied that the Senate is doing the right work. Again, Senator Rompkey and others are impatient with me today, but we are coming to the end. It is not proper. It is not correct. It is not the role of the Senate to be pushed around at the last minute by the other chamber with respect to bills as complicated and as important for many of the financial institutions as is this one.

• (1330)

For the same reason as expressed, I am afraid many senators will have to get upand follow the leadership of Senator Joyal, having not read the bill and not knowing all of its implications. I am very ill at ease because I am not a rich man. At least I can say that. I do happen to deal with banks and financial institutions for my father's estate, et cetera. I wonder if, according to the new rules, I may not find myself slightly in a conflict of interest. I doubt that. I am not in the same high position as Senator Joyal may be. He has to be more careful being chair of the Conflict of Interest Committee.

I will not further participate except where I am allowed to participate and say that I will not vote at all for the reasons I just expressed. If people watch the vote, they will think I am absent. I do not like my name to be put as absent from the Senate. I have been here almost 13 years, and I think my record is almost 100 per cent present. My attendance at committees is way above what I am expected to do. I like to go to committees.

Senators, how many more bills do you intend to throw at us at the last minute; to say, "Well, events are going to unfold, and tough luck. Hold your nose and vote for it." I will not hold my nose; I will vote today on other pieces of legislation as well as those that will be thrown at us from the other chamber.

I see the able chairman of the Standing Senate Committee on Banking, Trade and Commerce, Senator Grafstein, acknowledging my remarks. If that honourable senator agrees with me, that means he is serious. He knows his stuff, and a bill of that kind should have been brought to our attention. Is it impossible to have it before or is it possible to postpone? I do not know. I will bow to expertise, and there are four of them here that are at least as influential, including Senator Biron and Senator Grafstein —

Senator Angus: Plamondon.

Senator Prud'homme: — Senator Angus and Senator Tkachuk. These people do not seem to be too thrilled to push this bill on us because they themselves would have liked to study it further.

I regret this, and I wish that the Leader of the Government in the Senate would take his responsibility seriously and send a message to the other chamber and say, "Enough is enough. Let the universe unfold and when we come back, we will proceed more rapidly."

I am embarrassed. I see the Leader of the Government in the Senate coming back to his seat. I want him to know that bills like this are unbelievable. The members of your own Banking Committee, I am sure, wanted to have more time to study that important piece of legislation, which consists of 283 pages, and where even some members are uncomfortable. One has already expressed the thought that he is not too sure, not having had time to read the bill, whether some of us may not even be in a conflict of interest.

You see the embarrassment. Mr. Minister, will you be kind enough at least to send an urgent message to the other chamber, not only to make them happy by saying that the Senate has passed everything they have thrown at us but begging them not to send us anything else until the universe unfolds on Monday night.

Debate suspended.

EXPORT AND IMPORT OF ROUGH DIAMONDS ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons returning Bill S-36, entitled an act to amend the Export and Import of Rough Diamonds Act, and acquainting the Senate that they had passed this bill without amendment.

A BILL TO AMEND CERTAIN ACTS IN RELATION TO FINANCIAL INSTITUTIONS

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Harb, seconded by the Honourable Senator Smith, for the second reading of Bill C-57, to amend certain acts in relation to financial institutions.

Hon. Jack Austin (Leader of the Government): Honourable senators, I want to assure the House that there are no further bills from the other place yet to be expected in this chamber today.

Senator Prud'homme: They do not sit tomorrow.

Senator Austin: They do sit Monday, so I cannot speak for Monday.

Honourable senators, on the bill itself, I spent several years on the Standing Senate Committee on Banking, Trade and Commerce and the review of the CCBA was part of the work that I participated in and enjoyed very much.

All of us know that corporate governance is a major issue and that Canadian financial institutions should be operating at the highest of standards with respect to corporate governance.

The sole purpose of this bill is to bring the provisions that apply to financial institutions to the level of the private corporate practice or commercial corporate practice. It is essentially an updating process. It is a bill that is very important to those institutions. To have those institutions governed by this legislation, they are asking to have these new standards applied to them. They may be practising these standards now, and I believe they are. However, I think we should put the legal footing to those practices.

I want to thank Senator Harb for the work that he has done, and I want to thank Senator Angus for his statements. He is very knowledgeable about corporate practice and corporate governance. I appreciate his statements and I want to express my appreciation to the chair of the Standing Senate Committee on Banking, Trade and Commerce for the comments that he has made.

Hon. Jerahmiel S. Grafstein: May I ask a brief question of the Leader of the Government in the Senate?

The Hon. the Speaker pro tempore: Will the honourable senator accept a question?

Senator Austin: Of course.

Senator Grafstein: We have heard from Senator Prud'homme and his concerns about unintended consequences that might occur as a result of this bill. I think Senator Angus mentioned that in his comments there might be other issues that have not come to our attention, and I assume that we have the assurance of the government that if these matters come to our attention *ex post facto*, we will be able to deal with them expeditiously when we return after dissolution, if it occurs.

Senator Austin: Honourable senators, I would like to give the house the assurance that if the Standing Senate Committee on Banking, Trade and Commerce seeks an order of reference to deal with some matters that are contained in Bill C-57, I, or at least the Leader of the Government in the Senate following the election, would undoubtedly want to put that order of reference quickly to the committee.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Hon. Marcel Prud'homme: Just a comment to ensure that we are clear. I appreciate the words of the minister. Of course, that is all he can say. He cannot commit himself, if he were to remain. He can hardly commit any other leader to do as he just mentioned.

Senator Austin: As Senator Prud'homme knows, I cannot commit a future leader if it is not I.

Hon. Senators: Question!

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

• (1340)

The Hon. the Speaker pro tempore: When shall this bill be read the third time?

Hon. Mac Harb: Now.

The Hon. the Speaker pro tempore: Is leave granted?

Hon. Madeleine Plamondon: No.

The Hon. the Speaker pro tempore: Leave is not granted, Senator Harb.

Hon. Mac Harb: I move, then, that the bill be read the third time later today as per the decision of the house earlier this day.

The Hon. the Speaker pro tempore: It is moved by the Honourable Senator Harb, seconded by Senator Smith, that this bill be read the third time later this day as prescribed in rule 38. Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill placed on the Orders of the Day for third reading later this day.

BUSINESS OF THE SENATE

Hon. Lorna Milne: Honourable senators, I ask leave to revert —

Hon. Marcel Prud'homme: No.

The Hon. the Speaker pro tempore: Is leave granted for Senator Milne to revert?

Senator Prud'homme: I said no.

The Hon. the Speaker pro tempore: Leave is not granted.

Senator Milne: You do not even know what I want to revert to.

INTERNMENT OF PERSONS OF UKRAINIAN ORIGIN RECOGNITION BILL

SECOND READING

Hon. Terry Stratton (Deputy Leader of the Opposition) moved second reading of Bill C-331, to acknowledge that persons of Ukrainian origin were interned in Canada during the First World War and to provide for recognition of this event.—(Honourable Senator Kinsella)

He said: Honourable senators, I am pleased to rise today to speak to Bill C-331. Bill C-331 is a private member's bill introduced by the Conservative Member of Parliament in the other place Inky Mark. This bill will help to heal a scar on this nation's history, one that we have worn for close to 100 years.

This bill will create an act to recognize the injustice done to persons of Ukrainian decent, and other Europeans, who were interned at the time of the First World War. It also provides for public commemoration and restitution which is to be devoted to public education and the promotion of tolerance.

There are two main components of this bill. The first is to call for recognition that, during the First World War, people of Ukrainian descent and other Europeans were interned in Canada. Let me remind you, honourable senators, that between 1914 and 1920 over 88,000 Ukrainians were made to register with officials. They were required to report each month to the police and to have their registration cards stamped. During that same time, more than 9,000 people were interned. Let us be honest with our words; this means they were put into what were essentially prison camps.

Over half these people, some 5,000, were Ukrainian-Canadians. However, here is an odd twist of history that we often come across in this great country of ours. At the time that our government was interning Ukrainian-Canadians, Filip Konowal, himself a Ukrainian-Canadian, received a Victoria Cross while fighting in Europe.

Honourable senators, we need to acknowledge this historic wrong against Ukrainian-Canadians. Bill C-331 will provide for negotiations to take place between our government and Ukrainian-Canadian organizations regarding the specific measures that this recognition will constitute.

The second part of this bill is a call for redress. This means the return of properties confiscated by the government of the day. When these people were interned, their private property was confiscated by our country and never returned.

Under Bill C-331, this restitution amount, which remains to be negotiated, will go to public education. It will go to promoting tolerance and the role of the Canadian Charter of Rights and Freedoms.

This kind of action will help all Canadians learn from our past and ensure that this wrong is never repeated. Sadly, it has taken many years to get to this point.

The issue of redress for Ukrainian-Canadians was first debated in the other place in September 1991, but only through a motion. Bill C-331 has been introduced twice before, the first time in 2001, but it was never debated. Only now, thanks to the hard work of Mr. Mark we are seeing injustices dealt with.

To quote Senator Andreychuk yesterday in Hansard:

... I call on senators individually and collectively to use their heroic efforts and to pass Bill C-331 before we rise in this session.

She goes on to say:

Honourable senators, this chamber, with its courage to take a stand, will, I am sure, pass this bill. It will be one further assurance that within Canada such action will not be repeated.

Hon. Vivienne Poy: Honourable senators, I should like to speak in support of Bill C-331, which acknowledges the internment of persons of Ukrainian origin during World War I and calls for the recognition of this event through commemoration and public education.

In addition, the act expresses the deep sorrow of Parliament for that event and allows a request to be made to the Canada Post Corporation for the issue of commemorative stamps.

Lately, we have heard a lot about the need to acknowledge past wrongs perpetrated by the Canadian government and the need for redress. Since we cannot change the past, our efforts must focus on making sure such unfortunate events cannot occur again. The only way we can do that is through acknowledgement, public education and commemoration.

As the Prime Minister said, "It is not enough to remember the past, you have to learn from the past."

Between 1914 and 1920, as a result of the War Measures Act, and the Order-in-Council that followed, 8,579 Eastern Europeans including 5,000 Ukrainian-Canadians, according to the published reports were rounded up and placed in internment camps.

Essentially they were imprisoned in their new homeland because of where they came from and who they were, and they became "enemy aliens."

These same Ukrainians have gone on to form the backbone of our multicultural country. In Western Canada, in particular, Ukrainian heritage is most evident. It has shaped the region. For the longest time, these families have been denied the satisfaction of having their history officially acknowledged by our government.

• (1350)

It is time that we as Canadians take ownership of our past, both the good and the bad, so that we can move forward to share in the collective future of our great country.

An agreement in principle was signed between the Government of Canada and the Ukrainian Canadian community on August 24, 2005, for the initial amount of \$2.5 million, for acknowledgement, commemoration and education. Without a doubt, Bill C-331 and the determination of its sponsor, Inky Mark, provided the catalyst and foundation for negotiations between the Ukrainian Canadian organizations and their government counterparts.

I would like to take this opportunity to publicly congratulate Inky Mark, the Ukrainian Canadian Congress, the Ukrainian Canadian Civil Liberties Association and the Ukrainian Canadian Foundation of Taras Shevchenko for jointly supporting Bill C-331. I would like to congratulate as well the Minister of State for Multiculturalism, Raymond Chan, and our Prime Minister for beginning the process of reconciliation.

Honourable senators, I urge all my colleagues to support this bill.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, my association with the Ukrainian community goes back more than 40 years. In 1964, when I was a young newly elected parliamentarian, the Right Honourable Pearson allowed me to go and campaign with Ross Thatcher, in Saskatchewan, on his first election campaign. This allowed me to get to know the Ukrainian community better. I became one of Mr. Thatcher's preferred speakers for that region.

[English]

I said yesterday, I became a close personal friend of the first woman elected there, I believe, Madame Sally Merchant, who became a minister. She is the mother-in-law of our colleague Senator Pana Merchant.

In 1967, having many good connections in Saskatchewan, I was called back again, and I again campaigned throughout Saskatchewan. That is when I met Otto Lang, who eventually became a federal minister, and I became his parliamentary secretary. Therefore, my association goes back a long way.

There still exists a good and prosperous Ukrainian community in Rosemont in eastern Montreal. I had the pleasure of meeting there a gentleman who is a now a big businessman in Toronto and who helped the emerging democracy of Ukraine. His name is Lubomyr Kwasnycia.

How can we not support this great initiative? I live in a district in Montreal called Little Italy, where all the friends of my father were interned during the war. Little Italy is at Boulevard St-Laurent and Marché Jean-Talon. Many people were interned during the Second World War, and only now do we see fit to render justice to them.

My neighbour on the corner of Beaubien and St-Denis, where I was born and still live, still has in a frame the passport that all Chinese had to carry. It cost \$500. I became acquainted with him when I was young. I saw this passport in my favourite restaurant and asked him what is was.

We are repairing all the wrongs of the past.

I am sure that the Trudeauists, of which there are still some here, will pay attention to the following: There was a big discussion in caucus about repairing the damage done to the Japanese community. Mr. Trudeau, as always, made it a philosophical debate. He spoke about precedents and showed us a list of all the wrongs that had been committed in the history of Canada, although I am sure that it was not his preference to speak as he did. As you know, this atonement to the Japanese community was made under the Right Honourable Brian Mulroney.

It was Mr. Trudeau's view that many wrongs have been done in Canada in the past. I remember that someone disputed him in that discussion. Mr. Trudeau said, very intelligently, "If you create a precedent, there will be no end to them." He mentioned

the Chinese and the Italians. The man who disputed him was a well known personality from New Brunswick. As a matter of fact, he voted for me in the election for chairman of the national Liberal caucus.

Mr. Trudeau said that if we continue like this, we will need to go back to the deportation of the Acadians and make recompense to those who were deported. I think he had a point. My ancestors arrived in Canada in 1634 from l'Île St. Louis. Captain Prud'homme was in charge of the military to defend the new colony. There must be an end eventually.

I am happy that this group will receive justice. I am surprised that many people of Acadian origin say that they are not French Canadians but are, rather, Acadian, and I am proud of that. The Canadian government has apologized to the Acadians, but I believe that the ultimate goal of la Société des Acadiens is to get an apology from Her Majesty. It would not hurt her, because she is not responsible for what happened in 1760, but that would close a sad page in our history. In the deportation of the Acadians, families were separated.

We have heard about this from some of our colleagues who are Acadians. Senator Comeau has played a great role in promoting this issue, along with others. Ultimately, an apology has not been made. I do not know whether it will ever be made.

Since I am the only one here who was made a member of the Queen's Privy Council by the Queen herself, and not by the Governor General, perhaps I should sit down with la Société des Acadiens and draft a polite letter to our gracious Queen, the Queen of Canada, saying that in order to close the book on all of these past injustices, there should be royal apologies for wrongs committed in the past.

Needless to say, I am very close to the Ukrainian community. It will please some Westerners to know that Laurence Decore of Alberta was once my teacher. He comes from an elite family. Senator Austin could confirm that he was mayor of Edmonton and leader of the Liberal Party, and he was my teacher. As a matter of fact, he was very close to Senator Pépin. I want it to be on record that Senator Pépin has also known Mr. Laurence Decore. I am also aware that he has informed Senator Pépin of the importance of the Ukrainian community in Canada.

• (1400)

I did not know that Mr. Decore was Ukrainian until he told me, because his name has both English and French pronunciations. However, he was a very proud person of Ukrainian origin and came from an immensely proud Ukrainian community.

All that to say, without preparation — I did not know this was to pass today — that I speak of what I saw from my experience. I am delighted to join in, and I am sure my colleague here will join with me, although I cannot speak for her. I have a feeling that if she were to speak, she would speak the same way as we all just did. If we were to vote on this bill, we would all vote together, although I only speak for myself. I do not want this matter to be delayed any further.

We will all rejoice in the spirit of Christmas.

Senator Stratton: Question!

Hon. Sharon Carstairs: Honourable senators, I wish to say a few words. I come from a city, as does my colleague across the way, which has large numbers of Ukrainians, some of whom were interned and for whom Mr. Mark is trying to bring some cause and attention. I want to congratulate him on the way in which his bill was written, because I think that he has got to the essence of what we must say and what we must do in compensation for people who were treated unfairly.

I have never believed in the blanket apology of one generation for the acts of another generation because in some ways it is meaningless. If we were not there, if we did not take part in the act, what are we apologizing for?

If, on the other hand, we are recognizing that a misdeed was done to certain people and we want to ensure that that misdeed is not done to other people, then we are, in fact, taking the appropriate action. That is what Mr. Mark has chosen to do in the presentation of his bill.

I also think that we should be mindful of the fact that the Canadian Museum of Human Rights is being built in Winnipeg. One of my concerns, when Mr. Asper first came to talk to me about that museum, was that while I recognized the Holocaust and wanted appropriate tribute to be paid to what happened in the Holocaust, I also knew that there were grievous injuries and injustices sustained by other people, although not necessarily in our country, but in other countries. In particular, the Ukrainian famine is a perfect example of that. I was concerned that the museum reflect many of these tragedies that had happened in our country and worldwide because it is a marvellous opportunity in a museum of that nature to portray man's humanity to man, to portray the mistakes that we have made in the past, to portray the by us in the right direction to not make those actions a reality in the future.

I was pleased when Izzy Asper told me that that is exactly what the intent of this museum was: that it would, in fact, make reference to the Chinese head tax, which was not exactly a wonderful time in our history; that it would make reference to the internment of Italians and Ukrainians during the war; and that it would reflect not only the good things that we do in this country but what is more important, it would remind us that in the past, and unfortunately perhaps also in the future, we will take actions which are not appropriate and for which we must be held accountable. I believe that this bill, on that basis, is a very good first step.

Hon. Senators: Hear, hear!

[Translation]

Hon. Madeleine Plamondon: Honourable senators, I would like to add a comment. I have read the press release and the history of the bill.

I will be pleased to support Bill C-331. I feel that a grave injustice was done to people of Ukrainian descent, and it is in a spirit of justice that I support this bill.

[English]

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Stratton, seconded by the Honourable Senator Comeau, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Speaker pro tempore: When shall the bill be read the third time?

Hon. Terry Stratton (Deputy Leader of the Opposition): I move that this bill be read the third time now.

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

• (1410)

BUSINESS OF THE SENATE

MOTION TO DEAL WITH BILL C-331 AND BILL C-259 ADOPTED

Hon. Terry Stratton (Deputy Leader of the Opposition), pursuant to notice of November 24, 2005, moved:

That, no later than 3:30 p.m. Friday, November 25, 2005, the Speaker shall interrupt any proceedings then underway and all questions necessary to dispose of all stages of the following bills shall be put forthwith without further adjournment, debate or amendment:

Bill C-331, An Act to acknowledge that persons of Ukrainian origin were interned in Canada during the First World War and to provide for recognition of this event

Bill C-259, An Act to amend the Excise Tax Act (elimination of excise tax on jewellery).

He said: Honourable senators, the motion speaks for itself. It goes without saying that Bill C-331 has been dealt with, and we are now left with Bill C-259. That is all we are dealing with now.

Some Hon. Senators: Question!

The Hon. the Speaker pro tempore: Is the house ready for the question?

Some Hon. Senators: Question!

Hon. Madeleine Plamondon: I do not agree. I ask for a vote.

Some Hon. Senators: Question!

The Hon. the Speaker pro tempore: Is the house ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All those opposed to the motion will please say "nay."

Hon. Marcel Prud'homme: Nay.

The Hon. the Speaker pro tempore: In my opinion, the "yeas" have it.

Senator Prud'homme: On division.

Motion agreed to, on division.

Hon. Bill Rompkey (Deputy Leader of the Government): We have, honourable senators, a house order for a vote at 2:45 p,m., and we have no further business before us at the moment. We would either need to change the house order or suspend the sitting until 2:45 p.m.

Senator Stratton: Why would we not ask for consent to deal with all three items now, rather than suspend?

Senator Rompkey: Is there consensus in the chamber that we proceed now to deal with all three items?

Some Hon. Senators: Agreed.

Senator Rompkey: There appears to be consensus.

Some Hon. Senators: There is not.

Senator Prud'homme: Many things have happened. Repeat what you are asking, and then we will make a decision. Please remind us. We are getting old.

Senator Rompkey: There was a house order that we vote on Bill C-71 and Bill C-57 at 2:45 p.m. There is also a motion from Senator Stratton that we vote on Bill C-259. Therefore, there are three items before us to be voted on, one at 2:45 and one no later than 3:30. The chamber is being asked now whether we want to proceed immediately to vote on those three items.

Senator Stratton: It must be unanimous.

Hon. J. Michael Forrestall: If my memory serves me correctly, the wording is "not later than" $2.45\ p.m.$

Senator Rompkey: No. The wording is 2:45 p.m. but not later than 3:30 p.m.

Hon. Tommy Banks: If I recall correctly, both of the motions say exactly what the honourable senator has just said. Neither motion says, "not until 2:45" or "not until 3:30." Both motions say, "not later than."

Senator Stratton: We do not need consent to proceed now. Call the question.

Senator Rompkey: I propose, if the house is agreed, that we have a 15-minute bell to begin now and that we then vote on those three items.

The Hon. the Speaker pro tempore: Is that agreed?

Some Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Are senators ready for the question?

Hon. Senators: Question!

FIRST NATIONS COMMERCIAL AND INDUSTRIAL DEVELOPMENT BILL

THIRD READING

Hon. Tommy Banks moved third reading of Bill C-71, respecting the regulation of commercial and industrial undertakings on reserve lands.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

[Translation]

Hon. Madeleine Plamondon: Honourable senators, I move that the bill be not now read the third time but that it be read a third time this day six months hence.

Counsell

The Hon. the Speaker pro tempore: I am sorry, Senator Plamondon, but it was previously agreed that we would proceed to a third reading vote on Bill C-57 and Bill C-71 no later than 2:45 p.m. today.

[English]

Hon. Marcel Prud'homme: Although I know it is the whip who decides, the honourable senator would like a recorded vote with a 15-minute bell, although some people may take a different view.

[Translation]

The Hon. the Speaker pro tempore: Senator Plamondon, is your intention to request a recorded division?

Senator Plamondon: Yes, that is right.

(1420)

[English]

The Hon. the Speaker pro tempore: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All those opposed to the motion will please say "nay."

Senator Plamondon: Nay.

The Hon. the Speaker pro tempore: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker pro tempore: Call in the senators. There will be a 15-minute bell.

• (1430)

The Hon. the Speaker pro tempore: The question before the Senate is on the motion of Senator Banks, seconded by the Honourable Senator Day, for the third reading of Bill C-71.

Motion agreed to and bill read third time and passed, on the following division:

YEAS THE HONOURABLE SENATORS

Angus Atkins Austin Bacon Banks Callbeck Carstairs Christensen Cochrane Comeau Corbin Cowan Dawson Day De Bané	Keon Kinsella Lapointe Losier-Coo Mahovlich Merchant Milne Moore Munson Pépin Peterson Phalen Poy Ringuette
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Fairbairn	Robichaud
Fitzpatrick	Rompkey
Forrestall	Sibbeston
Fox	Smith
Fraser	Stollery
Goldstein	Stratton
Grafstein	Tardif
Gustafson	Tkachuk
Harb	Trenholme C
Hervieux-Payette	Zimmer—51
Hubley	

NAYS THE HONOURABLE SENATORS

Nil

ABSTENTIONS THE HONOURABLE SENATORS

Di Nino Prud'homme Gill Segal Plamondon Watt—6

A BILL TO AMEND CERTAIN ACTS IN RELATION TO FINANCIAL INSTITUTIONS

BILL TO AMEND—THIRD READING

Hon. Mac Harb moved third reading of Bill C-57, to amend certain Acts in relation to financial institutions.

The Hon. the Speaker pro tempore: It is moved by the Honourable Senator Harb, seconded by the Honourable Senator Dawson, that this bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon, Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: All those in favour of the motion please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All those opposed will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker pro tempore: Is there agreement on the bell?

Five minutes. Is leave granted?

Senator Harb: Honourable senators, there was a motion earlier today for the bells to ring so that all stages could be completed before 2:45 p.m. I take the position, as an individual senator who introduced Bill C-57, that we cannot postpone past 2:45 p.m. without contravening that motion passed earlier.

Senator Kinsella: All questions are put.

The Hon. the Speaker pro tempore: I will read part of the house order to honourable senators.

If a standing vote is requested, the bell to call in the senators is to be sounded for 15 minutes.

Is there agreement to go to five minutes? Is leave granted?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: It will be a five-minute bell.

Call in the senators.

• (1450)

The Hon. the Speaker pro tempore: Honourable senators, the question before the Senate is on the motion of Senator Harb, seconded by Senator Dawson, that Bill C-57 be read the third time.

Motion agreed to and bill read third time and passed, on the following division:

YEAS THE HONOURABLE SENATORS

Angus Hubley Atkins Keon Austin Kinsella Bacon Losier-Cool Baker Mahovlich Banks Merchant Callbeck Milne Carstairs Moore Christensen Munson Cochrane Pépin Comeau Peterson Corbin Phalen Cowan Pov Dawson Ringuette Day Robichaud De Bané Rompkey Di Nino Segal Fairbairn Sibbeston Fitzpatrick Smith Forrestall Stollery Fox Stratton Fraser Tardif Gill Tkachuk Grafstein Trenholme Counsell Gustafson Watt Harb Zimmer-52

NAYS THE HONOURABLE SENATORS

Hervieux-Payette Plamondon

Prud'homme-3

ABSTENTIONS
THE HONOURABLE SENATOR

Lapointe-1

EXCISE TAX ACT

BILL TO AMEND—THIRD READING

Hon. Consiglio Di Nino moved third reading of Bill C-259 to amend the Excise Tax Act (elimination of excise tax on jewellery).

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Hon. Marcel Prud'homme: On division.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All those opposed please say "nay."

Some Hon. Senators: Nay.

Some Hon. Senators: On division.

The Hon. the Speaker pro tempore: In my opinion, the "yeas" have it.

Motion agreed to and bill read third time and passed, on division.

BUSINESS OF THE SENATE

Hon. Noël A. Kinsella (Leader of the Opposition): Honourable senators, knowing that we are at the end of the Orders of the Day, and recognizing that there may be other business we want to conduct, I will now yield the floor to Senator Grafstein.

Hon. Jerahmiel S. Grafstein: Honourable senators, when Order No. 4 on the Order Paper under Senate public bills was before the chamber, I was outside dealing with Bill C-57. Unfortunately, I was not here. I ask leave of the Senate to revert to Order No. 4, which is Bill S-46, a bill respecting National Philanthropy Day.

Hon, Marcel Prud'homme: No.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Some Hon. Senators: Yes.

Senator Prud'homme: No.

Senator Grafstein: No?

The Hon. the Speaker pro tempore: Leave is not granted, Senator Grafstein.

Senator Grafstein: I ask for a motion to proceed.

The Hon. the Speaker pro tempore: There is no consent to revert to Orders of the Day.

(1500)

Hon. Jack Austin (Leader of the Government): This brings the house to the end of its legislative role. Of course, the sitting of the Senate will be suspended to await the summons with respect to Royal Assent, when senators will return to the chamber.

In these closing moments I would like to say that this session of Parliament has been constructive. I appreciate very much the understanding that the Leader of the Opposition and his colleagues have for the role of the government in this chamber. I know that the honourable senator appreciates that I understand the role that must be played by the opposition in this chamber and the balances that are structured between the two sides.

I thank all honourable senators for their diligence, their work and their application to the important public issues that all senators have had to deal with in this chamber.

I confess that I will miss Question Period for the next few weeks because I looked forward to it throughout the session, although not necessarily to every question. I am certain the opposition does not look forward to every answer. Nonetheless, it is an important part of the proceedings in this chamber.

I thank the staff of the Senate for their hard work. They have been kept busy at various times, not least over the last few days. Of course, these remarks are in anticipation of the carriage of a no-confidence motion in the other place. Should the motion fall, we will see you back here on Tuesday afternoon.

Senator Kinsella: Should this Thirty-eighth Parliament conclude early next week, senators will not be back here on Tuesday. If otherwise, I look forward to seeing all honourable senators next week.

In consideration that this might be the eve of the dissolution of the Thirty-eighth Parliament, I must say that, on balance, it has been a very good one. The work done by all honourable senators on both sides of the aisle in this chamber has been first class. It contributes to the public good of the great Canadian common weal and all senators should be proud of the work that has been achieved.

The chairs and deputy chairs of the Senate committees do an outstanding job of work, whether in policy studies for which they provide leadership or the analyses of proposed legislation. Those hours are never counted, and their work is more public in this chamber when senators gather in the fullness of the house. However, Senate committees are putting in long hours and the quality of the work is first-class.

I want to use this opportunity to single out the chairs and the deputy chairs and all members of the Senate committees. Certainly, all honourable senators will join me in thanking the

staff, the table officers, the pages, the reporters and translators who make the house run so smoothly, for the work that they have done during the Thirty-eighth Parliament. Noting the time of the year, I wish all a safe and happy Christmas.

[Translation]

Senator Prud'homme: Honourable senators, I am not the spokesperson for the unaligned senators, but I do personally think that a voice other than the official ones needs to be heard. The 11 senators with no governmental or official affiliation have been forgotten. I know that they like to pass us by, though that is a sizeable number, and it is likely to — and in my opinion should — get even larger.

I would like to thank the pages and to congratulate them. I hope they have learned that a person can remain above the madding crowd and that we need to passionately defend our ideas and not slavishly follow orders. It is good to hold definite opinions, provided one is very honest — as I always say, with honesty in our head and our heart, we must not be afraid to stand up, even if we stand alone. In later years, it is often the one who stands up and stands out who wins the day.

I therefore encourage any of you who are headed toward law to read the dissenting Supreme Court judgments. That is something I have been doing for 50 years. I have discovered that the dissenting justices often, over time, end up being the voice of the majority.

I want to thank all of the staff for their extraordinary loyalty. All of the internal workings of this place are always at our disposal. I wish them a happy holiday.

[English]

The Leader of the Government in the Senate said that he will miss Question Period. Well, Mr. Trudeau used to simply say that we will let the universe unfold as the universe will unfold. We might sit much longer than we think. We will let Canadians decide who the next government will be. My decision is taken and I will vote in a way that might surprise many of my friends.

Having said that, I trust we are still allowed to say "Merry Christmas" rather than that silly "Season's Greetings." Last year I sent 200 letters with that message. Being respectful of all Canadians, I wish some a Happy Hanukkah and others a Merry Christmas. Let us all return as civilized as it seems we are now when we part.

[Translation]

Hon. Madeleine Plamondon: Honourable senators, first I would like to thank you for supporting the bill on which I have been working since I first came to the Senate. This has been a long battle for me, and I have always cared about the plight of low-income earners.

I also want to thank the Senate's legislative staff, to whom I often turned and from whom I often received very good advice.

Senators from both sides of the house have also been very generous in providing explanations. I have often bothered Senator Prud'homme with questions of procedure, because I was not familiar with them.

If I upset anyone over the past few days, it is because I felt that, with a snap election on the way, using the procedure to try to pressure the other side into paying more attention to the substance of the bill was the only means at my disposal.

I learned a lot of things with these procedures. The battle over this bill is not over. It may continue in another arena, but I would like us to carry it on, with all the friendships that I have developed in the Senate, during the next Parliament.

[English]

The Hon. the Speaker pro tempore: Honourable senators, pursuant to an Order of the Senate adopted earlier this day, the Senate will now suspend to the call of the chair. Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: I do now leave the chair. I invite all honourable senators to the Speaker's quarters for a reception.

The Senate adjourned during pleasure.

• (1720)

[Translation]

The sitting of the Senate was resumed.

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

November 25, 2005

Mr. Speaker:

I have the honour to inform you that the Honourable Michel Bastarache, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy of the Governor General, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 25th day of November, 2005, at 4:57 p.m.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented To Friday, November 25, 2005:

An Act to amend the Criminal Code (trafficking in persons) (Bill C-49, Chapter 43, 2005)

An Act to amend the Criminal Code (proceeds of crime) and the Controlled Drugs and Substances Act and to make consequential amendments to another Act (*Bill C-53*, *Chapter 44*, 2005)

An Act governing the operation of remote sensing space systems (Bill C-25, Chapter 45, 2005)

An Act to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings (*Bill C-11*, *Chapter 46*, 2005)

An Act to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments to other Acts (Bill C-55, Chapter 47, 2005)

An Act to provide first nations with the option of managing and regulating oil and gas exploration and exploitation and of receiving moneys otherwise held for them by Canada (Bill C-54, Chapter 48, 2005)

An Act to authorize payments to provide assistance in relation to energy costs, housing energy consumption and public transit infrastructure, and to make consequential amendments to certain Acts (Bill C-66, Chapter 49, 2005)

An Act to amend the Telecommunications Act (Bill C-37, Chapter 50, 2005)

An Act to amend the Export and Import of Rough Diamonds Act (Bill S-36, Chapter 51, 2005)

An Act to acknowledge that persons of Ukrainian origin were interned in Canada during the First World War and to provide for recognition of this event (*Bill C-331*, *Chapter 52*, 2005)

An Act respecting the regulation of commercial and industrial undertakings on reserve lands (Bill C-71, Chapter 53, 2005)

An Act to amend certain Acts in relation to financial institutions (Bill C-57, Chapter 54, 2005)

An Act to amend the Excise Tax Act (elimination of excise tax on jewellery) (Bill C-259, Chapter 55, 2005)

• (1730)

[English]

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate, I move:

That notwithstanding the orders of the Senate of November 23 and 25, 2005, when the Senate adjourns

today, it do stand adjourned until Tuesday, November 29, 2005, at 2 p.m.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, November 29, 2005, at 2 p.m.

Appendix



Ministre de l'Industrie

David L. Emerson
Ottawa, Canada K1A 0H5

NSV. 2 4 2005

The Honourable Jerahmiel S. Grafstein Senator and Chair of Standing Senate Committee on Banking, Trade and Commerce The Senate of Canada, Room 217, East Block Ottawa, ON K1A OA4

Dear Senator Grafstein:

I am writing in response to observations made during your committee's meeting of November 23, 2005 with respect to Bill C-55, an Act to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments. As the Committee noted, the bill is a very important piece of legislation that will have significant impact on the economy, the protection of workers, and the life of many Canadians who face a situation of financial distress.

Bill C-55 contains a comprehensive and balanced reform to Canada's insolvency system. There is very strong and broad support for the policy objectives of the bill, which underscores the importance of securing its adoption by Parliament in a timely manner. However, given exceptional circumstances, the scrutiny of the detailed provisions of the bill has raised a number of implementation issues that deserve further consideration. In this regard, the Government commits not to proceed with the coming into the force of Bill C-55 before June 30, 2006. As soon as possible in 2006, the Government, through the Leader of the Government in the Senate, will refer the matter to the Committee for further study.

TABLE D'oul black Othank your committee for its diligence and cooperation.

TABLE Senate

au Sénat

DEPUTY CLERK

Sincerely,

David L. Emerson

cc: Mr. Gérald Lafrenière, Committee Clerk

Canadä

THE SENATE OF CANADA

PROGRESS OF LEGISLATION

(indicates the status of a bill by showing the date on which each stage has been completed)

(1st Session, 38th Parliament)

Friday, November 25, 2005

(*Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Thouses of Parliament have been notified of the declaration.)

GOVERNMENT BILLS

(SENATE)

R.A. 92 04/12/15 98 05/03/23* 20 05/11/03 20 05/11/25* 18 05/11/03 20 20				(2000)					
A second Act to harmonize federal law with 04/10/19 04/10/26 Legal and Constitutional federal law with 04/10/29 and the sortium of the prevent of a bridge over the St. Lawrence River and a bridge over the St. Lawrence of the purpose of bridge over the St. Lawrence River and a bridge over the St. Lawrence River Rive	Title	18t	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
An Act to implement an agreement, 04/10/28 04/11/17 Banking, Trade and Conmerce between Canada and Gabon, Ireland, avoidance of double taxation and the Azerbajan for the avoidance of double taxation and the avoidance of double taxation and the avoidance of double taxation and the Azerbajan for the avoidance of double taxation and the Azerbajan for the avoidance of double taxation and the Azerbajan for the avoidance of double taxation and the Azerbajan for the prevention of fiscal evasion. An Act to amend the Statistics Act and to 05/05/16 Bill Williams and Azerbajan for the purpose of a bridge over the St. Lawrence River and a bridge over the St. Lawrence Canal for the purpose of accompleting Highway 30 Market to amend the Act to amend the Azerbajan for the Purpose of Spidiff A Azerbajan for the purpose of accompleting Highway 30 Market to amend the Azerbajan for the Purpose of Spidiff A Azerbajan for the Purpose of Spidiff A Azerbajan for the Azerbajan for the Purpose of Spidiff A Azerbajan for the Purpose of Spidiff A Azerbajan for the A	A second Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	04/10/19	04/10/26	Legal and Constitutional Affairs	04/11/25	0 observations	04/12/02	04/12/15	25/04
An Act to amend the Statistics Act An Act to authorize the construction and biggs over the St. Lawrence River and a bridge over the St. Recompleting Highway 30 An Act to amend the Aeronautics Act and the Chriminal Code and the O5/05/19 An Act to amend the Chriminal Code and the O5/05/19 An Act to amend the National Department of O5/05/19 An Act to amend the National Department of O5/05/19 An Act to amend the National Department of O5/05/19 Cultural Property Export and Import Act An Act to amend the National Defence Act An Act to amend the Hazardous Maternals O5/05/13 O5/05/13 O5/05/13 O5/05/15 O5/05/10 O5/05	to implement an agreemed and protocols conclusions and protocols conclusions and Azerbaijan for a of double taxation and nof fiscal evasion	04/10/28	04/11/17	Banking, Trade and Commerce	04/11/25	0	04/12/08	05/03/23*	8/05
An Act to authorize the construction and maintenance of a bridge over the St. Leavence River and a bridge over the St. Communications Canal for the purpose of completing Highway 30 An Act to amend the Aeronautics Act and Import of 05/05/19 05/06/15 Foreign Affairs Science and the Criminal Code and the O5/05/31 05/06/15 Agriculture and Forestry 05/06/23 3 05/07/18 05/11/25* An Act to amend the Export and Import of 05/05/19 05/06/15 Foreign Affairs Science and O5/06/23 3 05/07/18 05/11/25* An Act to amend the Export and Import Act An Act to amend the Criminal Code and the 05/05/19 05/06/15 Agriculture and Forestry 05/06/23 3 05/07/18 05/11/25* An Act respecting the implementation of 05/05/31 05/06/15 Agriculture and Forestry 05/06/23 3 05/07/18 05/11/03 An Act respecting the implementation of 05/05/31 05/06/15 Agriculture and Constitutional regarding spirit drinks of foreign countries An Act to amend the National Defence Act of 10 05/06/15 Agriculture and Constitutional regarding spirit drinks of foreign countries An Act to amend the National Defence Act of 10 05/06/15 Agriculture and Constitutional regarding spirit drinks of foreign occurred the Criminal Records Act and the Market Act and the National Defence Act and National Records Act and the National Defence Act and National Records Act and National Defence Act and National Defence Act and Nationa	An Act to amend the Statistics Act	04/11/02	05/02/02	Social Affairs, Science and Technology	05/03/07	0	05/04/20	05/06/29*	31/05
An Act to amend the Aeronautics Act and the National Code, the Sex Offender An Act to amend the Export and Import of 05/05/19 05/06/15 Agriculture and Forestry (105/06/23) An Act respecting the implementation of information Registration Act to amend the National Defence Act An Act to amend the Export and Import Act An Act to amend the Criminal Code and the 05/05/19 05/06/15 Agriculture and Forestry (05/06/23) 3 05/07/18 05/11/25* An Act respecting the implementation of 05/05/31 05/06/15 Agriculture and Forestry (05/06/23) 3 05/07/18 05/11/103 An Act to amend the National Defence Act An Act to amend the National Office Act An Act to amend the Alazardous Materials (05/06/30) Social Affairs, Science and (05/09/29) 0 05/10/20 An Act to amend the Alazardous Materials (05/06/30) Social Affairs, Science and (05/09/29) 0 05/10/20	An Act to authorize the construction and maintenance of a bridge over the St. Lawrence River and a bridge over the Beauharnois Canal for the purpose of completing Highway 30	05/05/12	05/06/07	Transport and Communications	05/06/16	0	05/06/21	05/11/03	37/05
An Act to amend the Export and Import of 05/05/19 05/06/15 Energy, the Environment 05/06/16 0 05/06/20 05/11/25* An Act to amend the Criminal Code and the O5/05/19 05/06/15 Foreign Affairs 05/06/23 0 05/07/18 05/11/25* An Act to amend the National Defence Act, the Sex Offender Information Registration Act and the Criminal Records Act An Act to amend the Hazardous Materials 05/06/09 05/06/30 Social Affairs, Science and 05/09/29 0 05/10/20 An Act to amend the Hazardous Materials 05/06/09 05/06/30 Social Affairs, Science and 05/09/29 0 05/10/20 Energy, the Environment O5/06/16 O5/06/15 Agriculture and Forestry 05/06/13 05/06/16 O5/06/30 O5/0	An Act to amend the Aeronautics Act and to make consequential amendments to other Acts	05/05/16	Bill withdrawn pursuant to Speaker's Ruling 05/06/14						
An Act respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign Code, the Sex Offender Information Registration Act to amend the Hazardous Materials 05/06/09 05/06/30 Social Affairs, Science and 05/09/29 0 05/06/30 Social Affairs, Science and 05/09/29 0 05/10/20 Technology	An Act to amend the Export and Import of Rough Diamonds Act	05/05/19	60/90/50	Energy, the Environment and Natural Resources	05/06/16	0	05/06/20	05/11/25*	51/05
An Act respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign countries An Act to amend the National Defence Act, the Sex Offender Information Registration Act and the Criminal Records Act An Act to amend the Hazardous Materials 05/06/09 05/06/30 Social Affairs, Science and 05/09/29 0 05/10/20 Technology 3 05/07/18 05/11/03 9 05/07/18 05/11/03	An Act to amend the Criminal Code and the Cultural Property Export and Import Act	05/05/19	05/06/15	Foreign Affairs	05/06/29	0	05/07/18	05/11/25*	40/05
An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act An Act to amend the Hazardous Materials 05/06/09 05/06/30 Social Affairs, Science and 05/09/29 0 Technology	An Act respecting the implementation of international trade commitments by Canada regarding spirit drinks of foreign countries	05/05/31	05/06/15	Agriculture and Forestry	05/06/23	м	05/07/18	05/11/03	39/05
An Act to amend the Hazardous Materials 05/06/09 05/06/30 Social Affairs, Science and 05/09/29 0 Information Review Act	An Act to amend the National Defence Act, the Criminal Code, the Sex Offender Information Registration Act and the Criminal Records Act	05/06/07	05/06/15	Legal and Constitutional Affairs					
	An Act to amend the Hazardous Materials Information Review Act	60/90/50	02/06/30	Social Affairs, Science and Technology	05/09/29	0	05/10/20		

GOVERNMENT BILLS (HOUSE OF COMMONS)

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NO.	1116		7	Committee	Report	Amend	2	Y.A.	Cliap.
C-2	An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act	05/06/14	05/06/20	Legal and Constitutional Affairs	05/07/18	0 observations	05/07/19	05/07/20*	32/05
C-3	An Act to amend the Canada Shipping Act, the Canada Shipping Act, 2001, the Canada National Marine Conservation Areas Act and the Oceans Act	05/03/21	05/04/14	Transport and Communications	60/90/20	0 observations	05/06/22	05/06/23*	29/05
4	An Act to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment	04/11/16	04/12/09	Transport and Communications	05/02/15	0	05/02/22	05/02/24*	3/05
C-5	An Act to provide financial assistance for post-secondary education savings	04/12/07	04/12/08	Banking, Trade and Commerce	04/12/09	0 observations	04/12/13	04/12/15	26/04
9-0	An Act to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts	04/11/18	04/12/07	National Security and Defence	05/02/22	0	05/03/21	05/03/23*	10/05
C-7	An Act to amend the Department of Canadian Heritage Act and the Parks Canada Agency Act and to make related amendments to other Acts	04/11/30	04/12/09	Energy, the Environment and Natural Resources	05/02/10	0	05/02/16	05/02/24*	2/05
0	An Act to amend the Financial Administration Act, the Canada School of Public Service Act and the Official Languages Act	05/03/07	05/03/21	National Finance	05/04/14	0	05/04/19	05/04/21*	15/05
6-0	An Act to establish the Economic Development Agency of Canada for the Regions of Quebec	05/06/02	05/06/08	National Finance	05/06/16	0	05/06/21	05/06/23*	26/05
C-10	An Act to amend the Criminal Code (mental disorder) and to make consequential amendments to other Acts	05/02/08	05/02/22	Legal and Constitutional Affairs	05/05/12	0 observations	05/05/16	05/05/19*	22/05
C-11	An Act to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings	05/10/18	05/10/27	National Finance	05/11/24	0	05/11/25	05/11/25*	46/05
C-12	An Act to prevent the introduction and spread of communicable diseases	05/02/10	02/03/00	Social Affairs, Science and Technology	05/04/12	2	05/04/14	05/05/13*	20/05
C-13	An Act to amend the Criminal Code, the DNA Identification Act and the National Defence Act	05/05/12	05/05/16	Legal and Constitutional Affairs	05/05/18	0	05/05/19	05/05/19*	25/05

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NO.	one amena basis of too flooring of to A av	04/12/07	04/12/13	Aboriginal Peoples	05/02/10	0	05/02/10	05/02/15*	1/05
7	An Act to give enect to a land claims and self-government agreement among the Tlicho, the Government of the Northwest Territories and the Government of Canada, to make related amendments to the Mackenzie Valley Resource Management Act and to make consequential amendments to other Acts	10/21/40	21/21/40		0 1/20/00	0			
C-15	An Act to amend the Migratory Birds Convention Act, 1994 and the Canadian Environmental Protection Act, 1999	04/12/14	05/02/02	Energy, the Environment and Natural Resources	05/05/17	0 observations	05/05/18	05/05/19*	23/05
C-18	An Act to amend the Telefilm Canada Act and another Act	04/12/13	05/02/23	Transport and Communications	05/03/22	0 observations	05/03/23	05/03/23*	14/05
C-20	An Act to provide for real property taxation powers of first nations, to create a First Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority and First Nations Statistical Institute and to make consequential amendments to other Acts	04/12/13	05/02/16	Aboriginal Peoples	05/03/10	0	05/03/21	05/03/23*	9/05
C-22	An Act to establish the Department of Social Development and to amend and repeal certain related Acts	60/90/50	05/06/21	Social Affairs, Science and Technology	05/07/18	0	05/07/20	05/07/20*	35/05
C-23	An Act to establish the Department of Human Resources and Skills Development and to amend and repeal certain related Acts	05/06/02	05/06/14	Social Affairs, Science and Technology	05/07/18	0	05/07/20	05/07/20*	34/05
C-24	An Act to amend the Federal-Provincial Fiscal Arrangements Act and to make consequential amendments to other Acts (fiscal equalization payments to the provinces and funding to the territories)	05/02/16	05/02/22	National Finance	05/03/08	0	05/03/09	05/03/10*	2/05
C-25	An Act governing the operation of remote sensing space systems	05/10/18	05/11/01	Foreign Affairs	05/11/24	0 observations	05/11/25	05/11/25*	45/05
C-26	An Act to establish the Canada Border Services Agency	05/06/14	05/06/29	National Security and Defence	05/11/01	0 observations	05/11/02	05/11/03	38/05
C-28	An Act to amend the Food and Drugs Act	05/10/19	05/11/01	Social Affairs, Science and Technology	05/11/22	0	05/11/23	05/11/25*	42/05
C-29	An Act to amend the Patent Act	05/02/15	05/03/07	Banking, Trade and Commerce	05/04/12	2	05/04/14	05/05/05*	18/05
C-30	An Act to amend the Parliament of Canada Act and the Salaries Act and to make consequential amendments to other Acts	05/04/13	05/04/14	National Finance	05/04/21	0	05/04/21	05/04/21*	16/05
C-33	A second Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004	05/03/07	05/04/20	National Finance	05/05/03	0	05/05/10	05/05/13*	19/05

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-34	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 2, 2004-2005)	04/12/13	04/12/14	1	1	, 1 1	04/12/15	04/12/15	27/04
C-35	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 3, 2004-2005)	04/12/13	04/12/14		I		04/12/15	04/12/15	28/04
C-36	An Act to change the boundaries of the Acadie—Bathurst and Miramichi electoral districts	04/12/13	05/02/01	Legal and Constitutional Affairs	05/02/22	0 observations	05/02/23	05/02/24*	90/9
C-37	An Act to amend the Telecommunications Act	05/10/25	05/11/02	Transport and Communications	05/11/22	2 observations	05/11/24	05/11/25*	20/02
C-38	An Act respecting certain aspects of legal capacity for marriage for civil purposes	05/06/29	90/20/90	Legal and Constitutional Affairs	05/07/18	0	05/07/19	05/07/20*	33/02
C-39	An Act to amend the Federal-Provincial Fiscal Arrangements Act and to enact An Act respecting the provision of funding for diagnostic and medical equipment	05/02/22	05/03/08	Social Affairs, Science and Technology	05/03/10	0	05/03/22	05/03/23*	11/05
C-40	An Act to amend the Canada Grain Act and the Canada Transportation Act	05/05/12	05/05/16	Agriculture and Forestry	05/05/18	0	05/05/19	05/05/19*	24/05
C-41	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005 (Appropriation Act No. 4, 2004-2005)	05/03/22	05/03/23		1	1	05/03/23	05/03/23*	12/05
C-42	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2006 (Appropriation Act No. 1, 2005-2006)	05/03/22	05/03/23	1	ŀ	1	05/03/23	05/03/23*	13/05
C-43	An Act to implement certain provisions of the budget tabled in Parliament on February 23, 2005	05/06/16	05/06/21	National Finance	05/06/28	, 0	05/06/28	05/06/29*	30/05
C-45	An Act to provide services, assistance and compensation to or in respect of Canadian Forces members and veterans and to make amendments to certain Acts	05/05/10	05/05/10	National Finance	05/05/12	0	05/05/12	05/05/13*	21/05
C-48	An Act to authorize the Minister of Finance to make certain payments	05/06/28	02/01/06	National Finance	05/07/18	0 observations	05/07/20	05/07/20*	36/05
C-49	An Act to amend the Criminal Code (trafficking in persons)	05/10/18	05/11/01	Legal and Constitutional Affairs	05/11/24	0	05/11/25	05/11/25*	43/05
C-53	An Act to amend the Criminal Code (proceeds of crime) and the Controlled Drugs and Substances Act and to make consequential amendments to another Act	05/11/22	05/11/22	Legal and Constitutional Affairs	05/11/24	0	05/11/25	05/11/25*	44/05

Chap.	48/05	47/05	27/05	54/05	28/05	49/05	53/05		Chap.	20/99	4/05	2/02	52/05		Chap.	17/05
R.A.	05/11/25*	05/11/25*	05/06/23*	05/11/25*	05/06/23*	05/11/25*	05/11/25*		R.A.	05/11/25*	05/02/24*	05/02/24*	05/11/25*		R.A.	05/05/05*
3rd	05/11/25	05/11/25	05/06/22	05/11/25	05/06/22	05/11/25	05/11/25		3rd	05/11/25	05/02/22	05/02/22	05/11/25		3rd	04/11/02
Amend	0 observations	0 observations	0		I	0			Amend	0	0 observations	0 observations			Amend	0
Report	05/11/24	05/11/24	05/06/21		1	05/11/24			Report	05/11/25	05/02/17	05/02/17			Report	04/10/28
Committee	Aboriginal Peoples	Banking, Trade and Commerce	Aboriginal Peoples			Energy, the Environment and Natural Resources		COMMONS PUBLIC BILLS	Committee	Banking, Trade and Commerce	Legal and Constitutional Affairs	Legal and Constitutional Affairs		SENATE PUBLIC BILLS	Committee	Social Affairs, Science and Technology
2 nd	05/11/22	05/11/23	05/06/20	05/11/25	05/06/21	05/11/22	05/11/25	COMM	2 nd	05/11/23	04/12/07	04/12/07	05/11/25	SENA	2 nd	04/10/20
1st	05/11/22	05/11/22	05/06/16	05/11/23	05/06/15	05/11/22	05/11/23		1st	05/06/16	04/12/02	04/12/02	05/11/23		184	04/10/06
Title	An Act to provide first nations with the option of managing and regulating oil and gas exploration and exploitation and of receiving moneys otherwise held for them by Canada.	An Act to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments to other Acts	An Act to give effect to the Labrador Inuit Land Claims Agreement and the Labrador Inuit Tax Treatment Agreement	An Act to amend certain Acts in relation to financial institutions	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006)	An Act to authorize payments to provide assistance in relation to energy costs, housing energy consumption and public transit infrastructure, and to make consequential amendments to certain Acts	An Act respecting the regulation of commercial and industrial undertakings on reserve lands		Title	An Act to amend the Excise Tax Act (elimination of excise tax on jewellery)	An Act to change the name of the electoral district of Kitchener—Wilmot—Wellesley—Woolwich	An Act to change the name of the electoral district of Battle River	An Act to acknowledge that persons of Ukrainian origin were interned in Canada during the First World War and to provide for recognition of this event		Title	An Act to amend the Citizenship Act (Sen. Kinsella)
No.	C-54	C-55	C-56	C-57	C-58	99-2	C-71		No.	C-259	C-302	C-304	C-331		No.	S-2

No.	Title	1st	2 nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-3	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/10/06	04/10/07	Official Languages	04/10/21	0	04/10/26 Senate agreed to Commons amendments 05/11/22	05/11/25*	41/05
4.0	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/10/06	Dropped from Order Paper pursuant to Rule 27(3) 05/02/22						
S-5	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	04/10/07	04/10/26	Transport and Communications (withdrawn) 04/10/28 Legal and Constitutional Affairs					
9-8	An Act to amend the Canada Transportation Act (running rights for carriage of grain) (Sen. Banks)	04/10/07							
S-7-	An Act to amend the Supreme Court Act (references by Governor in Council) (Sen. Cools)	04/10/07	Dropped from Order Paper pursuant to Rule 27(3) 05/02/22						
လ္ခ်	An Act to amend the Judges Act (Sen. Cools)	04/10/07	Dropped from Order Paper pursuant to Rule 27(3) 05/06/16			:			
8-9	An Act to amend the Copyright Act (Sen. Day)	04/10/07	04/10/20	Social Affairs, Science and Technology	1				
S-11	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/10/19	04/10/26	Legal and Constitutional Affairs	05/04/12	2 observations	05/05/17		
S-12	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/10/19	05/06/01	Energy, the Environment and Natural Resources	05/06/29	0	05/11/23	; ;	
S-13	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/10/19	04/11/17	Legal and Constitutional Affairs				l	
S-14	An Act to protect heritage lighthouses (Sen. Forrestall)	04/10/20	04/11/02	Social Affairs, Science and Technology	05/03/21	0	05/03/23		
S-15	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/10/20		Subject matter 05/02/10 Transport and Communications					

Chap.					1								
R.A.							· [8]						
3rd		05/06/28											
Amend		-											
Report		05/06/23											
Committee	Subject matter 05/02/22 Aboriginal Peoples	Banking, Trade and Commerce	Subject matter 05/02/02 Legal and Constitutional Affairs	Legal and Constitutional Affairs		Subject matter 05/07/18 Legal and Constitutional Affairs	Legal and Constitutional Affairs	Social Affairs, Science and Technology	Banking, Trade and Commerce	Social Affairs, Science and Technology			
2 nd		04/12/07		05/03/10	Dropped from Order Paper pursuant to Rule 27(3) 05/10/18	Dropped from Order Paper pursuant to Rule 27(3) 05/11/25	05/03/10	05/06/01	05/06/01	05/06/01		Dropped from Order Paper pursuant to Rule 27(3) 05/11/03	
1st	04/10/27	04/11/04	04/11/30	04/12/02	04/12/09	05/02/01	05/02/03	05/02/16	05/03/23	05/05/05	05/05/10	05/05/12	05/05/16
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